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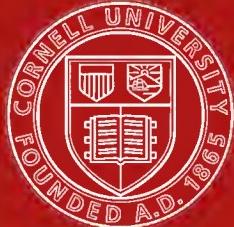
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# REPORTS OF CASES

IN THE

## COURTS OF STAR CHAMBER AND HIGH COMMISSION.

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EDITED BY  
SAMUEL RAWSON GARDINER, LL.D.

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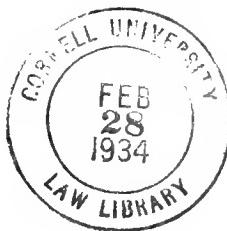
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## PREFACE.

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THE greater part of the present volume was copied for the late Mr. Bruce, who undertook to edit it. He probably thought, and, if so, the Society will doubtless agree with him, that it might do much to dispel the ignorance which exists on the working of the Courts of Star Chamber and High Commission, if a complete set of reports of cases within a limited period were published. In this way the attention of the student would be drawn from the few State Trials, which necessarily occupy so large a space in our histories, to the ordinary course of business which went on uninterruptedly, except during the vacations. The cases in the Star Chamber reach from Easter Term, 1631, to Trinity Term, 1632; whilst those in the High Commission Court begin in October, 1631, and extend to June, 1632. Of the Star Chamber cases, those given in the pages from the beginning of the volume to page 111, as well as the High Commission cases from page 181 to the end of 269, are taken from Harleian MS. 4130; whilst the remainder of the volume is taken from Rawlinson MS., A128, in the Bodleian Library.

To those more interested in the study of personal character than in that of legal institutions, the appearances of men like Laud and

Abbot will be exceptionally attractive. Attention may also be drawn to the treatment of persons accused of attending conventicles, one of these, John Latropp, or Lathorp, being a personage of some note amongst those who subsequently emigrated to New England. Laud's reference to Prynne, at p. 314, is sufficient to indicate the spirit in which he was likely to treat him when he came before him. The notices of Abbot fully bear out the view taken by Mr. Lee of that archbishop in his article in the Dictionary of National Biography.

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## ERRATA.

- P. 240, line 2, for ‘*audiendum volentatem*’ read ‘*audiendam voluntatem*.’  
 P. 242, line 10, for ‘*commodium*’ read ‘*commodum*.’  
 P. 284, line 2, for doh ~~read~~ doth.  
 P. 292, footnote, for 282 read 281.

77-74 4/30/34

# CASES IN THE COURTS OF STAR CHAMBER AND HIGH COMMISSION.

## PART I.—STAR CHAMBER REPORTS.

[In Camera Stellat[a] Pasche, 7° Caroli Regis, 1631.]

|       |   |  |
|-------|---|--|
| Coram | Thoma, D[omi]no Coventry, D[omi]no Custode M[agni] S[igilli]<br>Anglie.     | Consilio<br>D[omi]ni<br>Regis<br>ib[ide]m. |
|       | Henrico, Comite Manchester, D[omi]no Custode P[rivati] S[igilli].           |  |
|       | Thoma, Comite Arundell, Comite Marescallo Anglie.                           |  |
|       | Philippo, Comite Pembroche et Montgomery.                                   |  |
|       | Ed[wa]r[d]o, Comite Dorsett.  |  |
|       | Henrico, Comite Danhy.  |  |
|       | Dudley, Vicecomite Dorcestr[iæ].  |  |
|       | Thoma, Vicecomite Wentworth.  |  |
|       | Ric[ard]o, Ep[iscop]o Winton[iensi].  |  |
|       | Ed[wa]r[d]o, D[omi]no Newburgh.   |  |
|       | Thoma Edmondes, Milite.   |  |
|       | Henrico Vane, Milite.   |  |
|       | Thoma Jarmin, Milite.   |  |
|       | Joh[ann]e Cooke, Milite.  |  |
|       | Nico[lao] Hide, M[ilita], D[omi]no Capit[ali] Just[iciario] Banci<br>Regis. |  |
|       | Thoma Richardson, M[ilita], Capit[ali] Just[iciario] de Banco.              |  |
|       | Francisco Cottington, Baronett[o], Cancell[ario] Scacc[a]rii.               |  |

Betweene Henry, Viscount Falkland - Pl[ain]t[iff], and  
 The Lord Mountnorris, Sir Arthur  
 Savage, K<sup>t</sup>, Walter Weldon,  
 Esqr. Philip Bushell, gent. and  
 others - - - - - Defend[an]ts.

The effect of  
 the pl[ain]-  
 t[iff's] bill.

The first charge of the Bill was that the defendants had all joyned and combined together to lay a scandall upon the Lord Viscount Falkland, late Lord Deputy of Ireland, in this manner: That Philip Bushell pretending his father to be unjustly convicted and executed for a supposed murther in Ireland had drawen and contrived a petition to the Lower House of Parliament to this effect: To the Right honorble the Knights, Citizens, and Burgesses now assembled in the lower House of Parliament. The humble petition of Philip Bushell, gent. whose father was unjustly hanged, Showeth, that Philip Bushell, father of the Petitioner, was unjustly accnsed of murthering his wife, who dyed a naturall death: That the Lord Viscount Falkland, Lord Deputy of Ireland, of purpose intending to pervert the course of justice and to make a prey upon the estate of Bushell, the father, being worth about 4000*l*, had joyned and combyned with the Lord Sarsfeild,<sup>a</sup> then Judge of the Assizes in the County of Kildare, unjustly to indite, arraigne, convict, condemne, and execute the said Philipp Bushell, the father, for the said supposed murther, and to this end the said Lord Sarsfeild was then of purpose chosen by the said Lord Deputy, being not his ordinary circuit, to be Judge of the Assize in the said county of Kildare. That at the precedent Assizes the Grand Jury found an ignoramus, and the then Judge was about to cause the said Philip Bushell, the father, to be acquitted by proclamation, but after he was reserved to another Assizes; that the said Judge Sarsfeild being then Justice of the Assizes, caused a non-indictment to be preferred to the then

<sup>a</sup> Sir Dominick Sarsfield, C.J. of the Common Pleas.

Grand Jury, which intended also to finde an ignoramus, but the said Lord Sarsfeld amerced and fined 4 of the Grand Jury and put them out of the Jury and chose 4 others in their roume: That he then drewe the said Jury into a private chamber and gave them evidence, and wrote upon the backe of the indictment, You of the Grand Jury are to finde this Bill: That he also threatened the Jury of tryall, and thereupon the said Philip Bushell, the father, was convicted, condemned, and executed, being a man of fower score yeare olde: That all the estate of the said Bushell, the father, was seized, *et cetera.*

The petitioner therfore humbly prayed the said House to take into consideration, and that a commission might be sent into Ireland to examine the truth of the promises, *et cetera.* That the said pet[it]ioner being about to preferre the said petition to the said House of Parliament the said S<sup>r</sup> Arthur Savage advised him to alter his petition and to preferre it to the Duke of Buckingham, which the said Bushell, the sonne, did, and seconded the same petition to the Duke, affirming to the Duke and others that all conteyned in the same was true: That S<sup>r</sup> Arthur Savage advised the Duke to write his letter to the Lord Deputy to perswade him to give satisfaction to the petitioner and soe stoppe him from clamor: That the said Duke gave orders to his Secretary to drawe such a letter: That S<sup>r</sup> Arthur Savage dictated the same letter to Stockdale, the Duke's Secretary: That it was written, sealed up, and delivered to the pet[it]ioner, P. Bushell, by him to be conveyed to the said Lord Deputy: That the said Duke being slayne before the letter was delivered to the Lord Falkland, they caused the same letter to be opened and annexed to another petition to the same purpose, and to be preferred to the Commons House of the next Parliament:<sup>a</sup> That the Lord Mount Norris being a Privy Counsellor of Ireland (as also the said Sir Arthur was a Privy Counsellor there) had reported that he liked not the said Lord Falkland's Government,

<sup>a</sup> *i. e.* in the Session of 1629.

for that he thought it too tiranicall, *et cetera*: That the said Walter Weldon and the said Philip Bushell, the sonne, had reported that the Lord Viscount Falkland had donne this for his owne gaine, to make a prey upon the said Bushell, the father, his estate worth 3,000 or 4,000<sup>l</sup> therewith to pay his daughters' portions:

That Mottersell, the scrivenor, did write the said petitions:—

That the whole matter was a grievous scandall layd upon the Lord Viscount Falkland, and his Government, and to impoyson his credit and reputation with the Duke, and with the King, and the rest of Nobles here, and tended also to the King's dishonor: and for repaire of honor, and to have their answers hereunto, and to cleare the truth the said Lord Falkland exhibited his bill in this Court. And shewed, further, that the said S<sup>r</sup> Arthur Savage bayled the said Bushell the Father, and he and the said Walter Weldon joyned together to embezell, conceale, and convert to their owne use the greatest part of the said Bushell's estate, and when the said Lord Deputy sent a commission to S<sup>r</sup> Terence Odemsi, Knight, to seize and receive into his hands the said estate and goods of the felon, which commission was advised and drawen by the King's Attorney Generall of that Kingdome, and issued out of the Chancery there, thereby charging the said Sheriffe and all others not to intermeddle with the said goods, the said Walter Weldon being then High Sheriffe of the said county of Kildare, and having seized the said goods before the Commission came, refused to deliver up the same to Sir Terence Odemsi till a second Commission came forth, *et cetera*, and S<sup>r</sup> Terence seized parte of the estate, as much as he could come by and but 100<sup>l</sup> Irish came to the King's coffers of all the estate and goods of the said Philip Bushell the father.

Philip Bushell, the defendant, justified in his answer the said petition to be true, and that his Father was unjustly put to death, and therfore he had just cause to complaine, *et cetera*.

The Lord Mount Norris, and the rest of the defendants, deny the confederacy and combination to raise the scandall, And S<sup>r</sup> Arthur Savage confesseth he mett Philip Bushell goeing to Westminster to

preferre his petition to the House of Parliament, that he advised them preferring of it to the Duke: and whereas the prayer of the petition was for a Commission into Ireland to examine witnesses, the said defendant, S<sup>r</sup> Arthur, thought that way would be too dis-honorable and publique, and therfore, out of respect to the Lord Falkland, advised that a letter might be sent by the Duke to the said Lord Deputy, that he thought the said Bushell was unjustly hanged, and verely beleived the same would heereafter, upon prooфе, fall out to be true, and sett downe the said Judge's carriage, in the said conviction that he threatned the Jury of Tryall, and when one of them would not agree with the rest of his fellowes, beat him and pinched him till he was feign to agree to the rest, and bid him make much of him to night, and then he would make much of him tomorrowwe, etc., but the said S<sup>r</sup> Arthur denied that he ever saw the said Bushell's petition, or read the same, etc., and in the openings of the said S<sup>r</sup> Arthur Savage's answer, by Mr. Holte, his age and service, both as a souldier and servant of the State, by Counsell was set forth, etcetera, and S<sup>r</sup> Arthur denied the dictating of the letter, etcetera. Mottersell, the defendant, answered that he did but write over the petition as a servant; he knewe nothyng, and it was to quitt an olde debt which he owed to Philip Bushell, and soe not guilty.

And the said S<sup>r</sup> Arthur and Walter Weldon denied the im-bezlling and concealling and conversion of the said Bushell's estate, or any part thereof, to their owne use, and pleaded to this *Not guilty.*

Fower or five days were spent in hearing the proofes on both sides in this cause, and the defendants moved that the depositions and proofes taken and made in the cause against the said Judge Sarsfeld and the Jury, at the suit of the defendant Bushell (which cause was not and yet is not ready for hearing) might be now read in the behalfe of the said Philip Bushell especially. This motion was much stood against by the Lord Falkland's Counsell, especially for that the said Judge should be prejudiced and even judged before

Hearing of the cause.

this came to hearing. Yet the court (because it tended much to the just defence of Bushell and extenuation of his fault, if it were any,) did give order for the reading the said proofes, bnt withall, that the Lord Sarsfield might not receive any damage,<sup>a</sup> it was ordered that his answeres should be likewise read, which was accordingly read, as also the said depositions and proofes, whereby the whole matter appeared to the Court.

Soe the Complainants Counsell having made their charge, and opened all their proofes, the defendants Counsell having also made their defence, it remained only that Mr. Atturney Generall, being of Counsell for the Lord Falkland, should replye, and soe the cause was to passe to sentence.

Mr. ATTORNEY his reply: May it please your Lordshipps, In the cause where the Lord Fal~~k~~land is plaintiff, and the Lord Mount Norris, S<sup>r</sup> Arthur Savage, Walter Weldon, Philip Bushell, and others are defendants, I shall refreshe your Lordshipps' memories with a fewe observations out of the whole cause, and leave it to your judgments. The complaint of the undue proceedings was not till M<sup>r</sup> Weldon was discharged of the goods. S<sup>r</sup> Arthur Savage and M<sup>r</sup> Weldon (We of Counsell for the plaintiff say,) had an eye to profit. The goods were of the value of 2,000 or 3,000<sup>l</sup>, and this by their owne oathes. When Mr. Sheriffe valued and prized them they are but 400<sup>l</sup> or thereabouts. And Mr. Sheriffe seized them the very day the prisoner was attainted.

M<sup>r</sup> Sheriffe and S<sup>r</sup> Arthur Savage seised the goods; both of them nad Bayliffes there, and S<sup>r</sup> Arthur Savage's souldiers assisted the keeping of the goods. The night before the seizure there were divers goods of value carried away; this the Defendants say was upon heeresay, but there is testimony that sawe it carried away in the night; but it appeareth not that it was carried to M<sup>r</sup> Weldon's house. Sheriffs in Ireland too frequently, I feare, seize goods too soone, and soe in England, I feare, and for my Lord Deputy to cause a reference to be made to the Judges of the Assize to examine the undue proceedings in the seizure of the goods when it was

<sup>a</sup> In MS. is here inserted "that his answeres to the Bill."

informed him, and to cause them to be put into safe hands; either of the Sheriffe or Coroner; he did this carefully, justly, and very honorably.

Another circumstance to be noted is the care of S<sup>r</sup> Arthur Savage and his soouldiers to looke to the goods. S<sup>r</sup> Arthur had reward for looking to the goods, 20 wethers; the servants were well paid for their paynes. There were 140 of them; they could not be all soouldiers.

When M<sup>r</sup> Sheriffe seised the goodes and the sheepe the markes were changed, some in S<sup>r</sup> Arthur's marke, some in M<sup>r</sup> Weldon's marke, some in Mr. Clarke's, and 400 lambes fleeces were conveyed away by one M<sup>rs</sup> Bushell, a widdowe: who should be charged with this but the Sheriffe that seised them. It is said M<sup>r</sup> Weldon was careful of Bushell's children, etc. and sure it is that many things went away, and never came into the inventory. Shall M<sup>r</sup> Sheriffe be the King's almoner without notice to the Lord Deputy?

S<sup>r</sup> Arthur Savage and M<sup>r</sup> Weldon are Brothers-in-lawe, and whethey they be *fratres in malo* I leave to the evidence.

My Lord Deputy received a letter from a servant that the goods were like to be imbezelled (and that he should be thereupon drawen into this aspersion is very strange). Let us shewe your Lordships what he did upon it. He sent for the King's Attorney Generall; the Atturney says if there were such an imbezelling of the goods it were the best way to send a Commission. They must fynd fault that S<sup>r</sup> Terence Odemsi was a commissioner; though he were a brother or neare of kinne or a friend was this a fault by a Judge ^ name one of his acquaintance in matter of trust? But he was farre from this; the King's Attorney says upon his oath he named him among others, but he was specially and alone charged with it; it is true the safer course and the better account might have been made, and it might have been well donne, to have had many eyes upon it. They say this was very quicke. Let us observe: the arraignement and conviction was 26 July, the seizure by the Sheriffe the same day, the imbezelling the same night, the letter to the Lord Deputy

the 27<sup>th</sup> day of July, the warrant the same night, the commission the next morning, so this followeth but in *serie temporis*.

The Commission was disobeyed; it was renued *totidem virbis*. It was doubted that this commission was not sufficient to discharge the Sheriffe; the Lord Chiefe Baron did deliver his opinion, when he sawe the greate seale (he thought the first had been a letter or other verball command) it was sufficient; from the 25<sup>th</sup> of July to the 12<sup>th</sup> of September heere was a faire tyme to imbezell the estate; then he delivereth over the goods and improveth it to 500<sup>li</sup>; they were stretched in value already.

S<sup>r</sup> Terence Odemsi was sent to be heard and make his account before the Lord Mount Norris; S<sup>r</sup> Terence required great allowances, you say; peradventure he might make for his extreme charge some straine of allowance; rent must be payd and servants wages; but upon his account he was not allowed it, he payd all; but that my Lord Deputy should be angry because he was not allowed this is not proved; it is a scandall unjustly taken up against my Lord Falkland. S<sup>r</sup> Terence Odemsi was an accountant; he was sent for by a messenger, being an olde man, in the middest of Januari, and to send for him by a messenger in a compulsory way when he was neere, and might be sent for in a friendly, was somewhat hard and not to be borne with.

They say heere was a desire by my Lord Falkland to make a prey. But cast backe your eyes, my Lords, what colour of prooфе is there made? My Lord Falkland never had a penny of gaine, as appeareth by witnesses. Nay, the defendants (which is more than a 1000 witnesses) say, in their answeres and depositions upon oath, that they thinke in their consciences that he had no proffitt nor noe such end; and yet, to endevour to prove it and to raise this sclaundor, I shall leave it to your Lordshipps.

To come to the scandall, I shall observe out of the petition what the nature of it is: The petition of Philip Bushell, whose Father was unjustly condemned, soe is the title; but this is not the ground of the snit heere, but that it is laid upon my Lord Deputy that he

should doe it out of desire to make gaine of his estate ; since the tyme of Jezebell I never heard of the like, but she did it. I doe not take upon me to free my Lord Sarsfeild in all things, but it is a dangerous case that after the tryall of lawe soe many yeares, this is against all Judges that after thus many yeares all should come to be scanned againe; it may be there was some precipitation, some too much warmeth of justice, but that I hope would not be a fault, especially in that Kingdome. I leave it to the tryall, he is in a way, and if he hath not donne well he must answer it at a greater barre. These things they may if any thing excuse a little, but must he speake wel of the Governor presently ; men are ready too much to complaine upon their governors : and I must needs say that too many, that never heard any thing in this cause, condemne not onely my Lord Sarsfeild but, through his sides, my Lord Falkland ; if my Lord Sarsfield hath not gonue soe cleare a way, must this be retorted upon my Lord Deputy? *Durus sermo.* And for a Judge to be put to give a reason of evidences given before him and tryalls, *durus hic etiam sermo.* There was neither malice nor corruption in the Judge till he was provoked.

If my Lord Deputy change the circuitinge Judges, shall he be charged with this, as to say he intended an act of injustice and to murther a man by pretence of justice? It is true that my Lord Deputy did contend for his jurisdiction to name the Judge, yet to say this was an intent of injustice is a malicious slander ; nay, they say his hand was in the ordering of the goods seized, and this was for his daughters' portions, and this was a common fame, but heard by none but Mr Weldon ; a prety way to raise slander by fame.

Now to see how the state of every one of these defendants stands. My Lord of Falkland is well knownen in this Court, and your Lordshipps, as you remember, would not have any evidence for the noble carriage and deportment of my Lord.

For the defendants I beginne with my Lord Mount Norris, our prooфе commes not soe home against him as was expected. My Lord Mount Norris was inquisitiye after the petition, and would have my

Lord Deputy removed, and would not returne into Ireland till he were removed.

Mottersell is the scribe, he writes the petition, nay, sayth some of the court, he did but transcribe it, he did not contrive it.

For Bushell, I think noe man can excuse his petition. First he delivered the petition to the King. This is not in the bill, but sheweth he had a good minde to the slander, but he delivered this petition afterwards to the Duke and gott his letter, opened it, and preferred another petition thereof to the House of Commons, and this will not excuse him that his father was unjustly condemned, was it then his parte to lay this slander upon my Lord Deputy? There was an yeare and halfe betweene the arraignement and the delivery of the first petition, halfe a yeare more for the delivery of the petition to the Duke, and halfe a yeare after for the petition to the parliament.

S<sup>r</sup> Arthur Savage, whatsoever he hath deserved, in this what he hath deserved I leave to your Lordshipps. Bushell intended to deliver a petition to the parliament, he advised that the course be altered and to be delivered to the Duke, he recommended it to the Duke, said it was true, related all to the Duke and others, it tooke such impression in the Duke that he tould some that S<sup>r</sup> Arthur had spoaken strange tales of the death of an ould man. The petitioner desired a commission to examine witnesses. But (now behold a stratagem of warre I thought not to have found it in a Conrt of Jnstice), now noe Commission but your Lordshipps' owne Letter that he should make restitution, that he might wound himself, and that another might not wound him. This was a poysoninge of my Lord's honor with the Duke, with the King, and with the rest of the nobility, and out of an endeavor to take away my Lord Falkland's honor with the nobility of England.

S<sup>r</sup> Arthur did dictate this letter, but he sayth as my Lord Duke directed, the Duke your Lordshipps knowe would bidde men "Goe to my Secretary"; nay, there was another dictator, S<sup>r</sup> Arthur's owne malice against my Lord Deputy, malicious it is plaine, for he saith upon his oath my Lord Deputy had no such ayme of gaine as he

thought in his conscience, and heere to put it in; this is malice. He affirmeth the contents of the petition to be true, but saith in his awnere he never read it. He hath published this libell to severall persons heere in England and in Ireland.

For Mr. Welden I say noe more but this, he was sworn officer, but it seemeth little regarded his office or oath; he rayseth the same that this was to pay my Lord Falkland's daughters' portions, connives at the carrying away of the goods, leaveth out some of them never sett downe in the inventory, etc.

This was an offence against a Nobleman, and not onely soe, but a Lord Deputy at that tyme of Ireland, Sir Arthur Savage a Privy Councillor there; and this aggravates his fault: if this had been true against my Lord Falkland what had he deserved? He had been most worthy of punishment, he had deserved the disfavour of his King and Master. Of what ill example is this that persons of such trust should be soe scandalized and traduced? I shall humbly submit it to your Lordshippes both for the King's fine and dammages to the party for repaire of honor.

CHANCELLOR OF THE EXCHEQUER: My Lords, you have with a great deale of patience heard a long and weighty cause. I shall with all brevity declare the reasons of my censure in this cause, Lord Viscount Falkland, plaintiff, against my Lord Mount Norris, S<sup>r</sup> Arthur Savage, Walter Welden, Bushell, and Mottersell. I shall beginne with Bushell, who made the petition of complaint first to the King (but that is not in the bill), then to the Duke, and afterwards to the parliament.

I conceive him the wretched sonne of a dead father, 80 yeares olde at his death; he sawe his father dead, his goods seized, two Assizes nothing donne, two *ignoramus'*, he was thought to be discharged by proclamation, and then, at another Assizes, there is a new Judge and a new Jury chosen, *et cetera*; yet for my Lord Sarsfeild, I will leave him to his due tryall; but for M<sup>r</sup> Attorney's minde, I am not of it, that there should be more severity used, but more mercy, if offendre in any parte, in the mercifull parte. This,

The sentence  
of the cause.

not that I shall not sentence Bushell, for I shall, and that not lightly. The petition is that, by the conspiracy of my Lord Falkland and the Lord Sarsfeild, his father was unjustly condemned, and that he might have recompense for his Father's goods seised by the Lord Deputy. Say that he was unjustly condemned, he might complayne, but not lay an aspersion upon the King's Deputy. I fine him therefore to pay to the King 500*l*, and 500*l* damages to my Lord Falkland, and, by his acknowledgment, to cleare my Lord Falkland at the barre heere and at the Assizes in Ireland.

For Sr Arthur Savage, my Lords, I take him as a souldier, and that of great meritt, in Queene Elizabeth's tyme, and since that tyme a Councillor of State, and certaintely his fault deserves the bigger and severer sentence. Not that Sr Arthur gave bayle onely for Bushell, in a case bayleable, a Justice may sometymes, but heerein is his fault. He meeteth with Bushell goeing to Westminster, he alters the course, the petition must be preferred to the Duke. I note he perswadeth my Lord Duke to send my Lord Falkland a letter to drawe him to compound, he was of opinion my Lord was guilty, and soe was the Duke too, it seemeth. My Lord Duke sayth Sr Arthur Savage had tolde him very foule things of this cause: and that Sr Arthur sayd the things in the petition were true, and that the money and goods seised were to pay my Lord Falkland's daughters' portions; but, in his answere he cleareth him, that he was not to be blamed, as he thought, in his conscience, nor for the arraignement nor for desire of gaine. The Duke's letter saith, I will never protect yow in soe foule a cause. I say not that Sr Arthur framed the letter nor opened it. I fynd just cause to censure him to pay a fine to the Kinge of 1000*l*, and to pay 3000*l* damages to my Lord Falkland; and that he make his acknowledgement either heere or at the Councell table, and in Ireland, at least, at the Councell table.

For Mr Welden, he is not in my opinion to be charged with the raysing of the scandall, but with his fault as he was a sworne officer of the King. I shall shewe your Lordships my reasons why I shall

censure him. That there were some goods not inventoried, 30 cowes, and whether those goods were carried that were put into the potts I knowe not ; this is imbezelling or suffering it to be imbezelled. There was a pretended sale, that S<sup>r</sup> Arthur had bought the goods; they changed the markes of the sheepe, and deteyned the lambes wooll, and when it was demanded it was denied as if it were upon the sheepes backes; and denied the corne, and disobeyed the Commission; he should not have disputed but obeyed. As M<sup>r</sup> Atturney saith, it is an offence of dangerous consequence to be committed by one that is sworne to make a true and a just account. They say the estate was good 3000<sup>l</sup> at first, but when it is seised it cometh to 300<sup>l</sup>. Then S<sup>r</sup> Terence Odemsi makes an account of 500<sup>l</sup>, but the King had but one hundred and fifty pounds Irish, and if this were in the bill against S<sup>r</sup> Terence I should censure him too, but for Mr. Welden, the Sheriffe, his offence being in the bill, I censure him to pay to the King a fine of 1000<sup>l</sup>.

For my Lord Mount Norris I shall, my Lords, say little of it, for what is not in the bill, he is not to bee punished. He is a great instrument in Ireland, and I fynd the more fault with him for disagreeing with the Deputy ; I leave him therfore to my Lord Keeper whether he shall pay any costes or noe. For Mottersell, who wrote over the petition, because he was but a servant he is to be cleared.

LORD RICHARDSON: In this cause, my Lords, I have to doe with 5 defendants at the suit of my Lord Viscount Falkland, S<sup>r</sup> Arthur Savage, Lord Mount Norris, Walter Welden, Mottersell, and Philip Bushell : This is the 6<sup>th</sup> day for the hearing of the cause, you have heard it honorably, and this deliberate hearing was most fitt for giving satisfaction to the partyes, to the world, and to your Lordships; most fitt in respect of the greatnessse and weight of the cause, great in respect of the partie, it concerneth a noble man and Peere of Scotland and then Lord Deputy in Ireland, and great for the quality of the cause, it is for scandalizing my Lord Deputy in point of justice, an imputation that he should pervert the course of justice and that for gaine to himselfe.

S<sup>r</sup> Arthur and Bushell did conspire to scandalize the party; they drawe it in a petition. This petition conteynes that my Lord Deputy and my Lord Falkland had joyned together to cendemne Bushell, the father, unjustly. S<sup>r</sup> Arthur informed my Lord Duke, and procured the letter for composition. This is the first charge of the bill, and that they did it out of ayme of gaine to themselves.

For Meredith and Mottersell, Meredith is not proceeded against. For Mottersell, he did but write it faire and to acquitt an olde debt to Bushell, and this is not such an offence as to make me sentence him; if he had advised it and published it, I should.

For my Lord Mount Norris, I must say, my Lords, discharge him from all manner of blemish in this cause, for what is proved against my Lord Norris? That he disliked the Deputies Government, that it was tiranicall and would not suffer the King's servants to enjoy their places, but not in contriving this slander; therefore, he is to be freed from *pena et culpa*, only this is to be disliked that he being a Privy Counsellor should not agree with the King's deputy, he that governeth for the King.

I shall beginne with Mr. Welden. I shall censure him as Mr. Chancellor did onely for the matter of deceipt against the King, for the raising of the slander I think there is nothing against him. That Mr. Welden did reporte that this was for my Lord Deputies daughters' portions, this being but *singularis testis*, I shall not condemn him for it. But for the goods, whereas he saith he hath a property as Sheriffe in the goods of felons, this was a fault in him to be much blamed. The Sheriffe hath not property, but the King at the tyme of the attainer of the party. It is true the Sheriffe may seise, and he ought to account for them. Sometimes the Coroner and sometimes the men of the place by the olde booke, and the Sheriffe must not be trusted alone, but must send a scedula to the Coroner. There is an officer in the Exchequer, I take it the Clarke of the Hanaper, that should seize, but the Sheriffs have put this in the Exchequer out of place. They say themselves the estate was first greate 3 or 4000<sup>l</sup>, how could this come to 300<sup>l</sup> or 500<sup>l</sup>,

and at length to come to 160<sup>l</sup> Irish, and this is but little, there was certainly an imbezelling and concealing, there was a carriage away of the goods, and they that reporte it were the men that carried the goods, they should have been examined, it is true, but it may be they were not in the way; and for the Sheriffe to take upon him to dispose the goods for the benefit of the children upon his own authority, and to make sale of them to S<sup>r</sup> Arthur Savage in that manner, it is not good, although he might sell them for valuable consideration: to be shorte therfore, I fyne M<sup>r</sup> Welden as M<sup>r</sup> Chancellor hath donne, 1,000<sup>l</sup>.

For Bushell, he is to be punished, though he be a sonne, and hath the warrant of nature to doe what he can for defence of his father's reputation. To goe soe impudently to work as to say this was donne by colour of justice, and to make a prey upon his estate, and this by conspiracy between the Deputy and the Judge, to lay an aspersion upon all in this sorte, this is not to be given way to; to have complained his father was unjustly condemned he might; he ought to be fyned; he is a poore and indigent man; the fyne of 500<sup>l</sup> is enough; and yet I hold fitt he should goe to the pillory, and his offence to be declared in paper wherfore he standeth there, and that he should be bound to the good behaviour, for he saith he will mainteyne the petition with his life; and to suffer imprisonment at the King's pleasure.

For S<sup>r</sup> Arthur Savage, a valiant man in his youth, a man of service, in his carriage as a counsellor a wise and judicious man, I could have wished he might have gone to his grave in honor; but justice, my Lords, must be donne; I hould him, under your favour, he is guilty, and deserves as great a fine as is sett upon him, or a very great punishment. S<sup>r</sup> Arthur Savage his men kept the goods. He claymned them by sale from the Sheriffe, nay the sheepe were marked with his marke, for he is deepe in Bushell's estate. Again it is proved he joyned with Bushell, and that he should joyne with soe base a fellowe I much dislike it in him. I doe not say he devised this petition; I think Bushell himself did it, but with other

heads, but he advised the preferring of the petition to the Duke. S<sup>r</sup> Arthur carried the petition to Stockdale, and Stockdale wrote the letter as S<sup>r</sup> Arthur dictated, and he said the petition was true, and saith plainly that Sarsfield was sent by my Lord Deputy of purpose to attaint Bushell. This is soe plaine that none can deny it, and noe defence can be made by any for him. Nay, in his own answere in this Court he goeth about to make it good; doth he not there sett downe the conference with Stockdale and the carriage of Judge Sarsfield? And this I take to be a great offence in S<sup>r</sup> Arthur Savage. The dignity of his person increaseth his offence, and in this case the offence is not donne to my Lord Deputy onely, but it reflecteth upon his Majesty. What will the people say that the King should send such a deputy, *occidere et possidere*, never heard of since Jezabell's tyme. This is directly against the Statute of Westminster against telling of false newes, and what false newes more prejudicall? and against the Statute made for punishment of scandalls raysed upon Lords, Barons, Peers, Judges. Soe, my Lords, this is a great offence for this honorable person S<sup>r</sup> Arthur Savage to fall into, and I am very sorry of it. Your Lordshipps have honorably heard this cause, and it much concerned and is well donne for satisfaction of all men. But for my Lord Sarsfield I doe leave him to your Lordshipps to be heard in tyme convenient; in meane while you have dealt nobly with him to heare his answere to clear his honor till the cause be heard. I doe not declare my opinion whether Bushell be rightly condemned. My Lord Sarsfeild first of all demurred, but it was overruled that he should answere; it is dangerous for Judges that are just and upright to be soe questioned, but if any shall for malice or sordid respects carry themselves amisso, God forbidd but they should answere for it. But for my Lord Falkland, he hath noe blemish justly layd to his charge, but did what perteyned to him or any gentleman of honor or any in this place. Let me shewe what is sayd against him. Ainsford his servant wrote him a letter of the undue seisure imbezelling the goods. He referreth it to the Justices

of Assize. For the contestation for his place and jurisdiction he might doe it and name my Lord J[ustic]e Sarsfield. Shall it be sayd presently it was to hange Bushell? That Sarsfeild said he had a speciall charge, that he had a charge; this was well, but we have charge too, and yet doe not hange. I doe not hange all hangeable, not to use my Lord Sarsfield's words, I doe not think this can sticke upon my Lord Falkland, but they say he awarded an unordinary Commission. It is true the Exchequer may award a Commission in such a case, but that any of this nature should be out of the Chancery I never heard of it before, but though the Court be mistaken yet he did nothing unjustly. Mr. Attorney Generall advised the Commission, and then the Lord Deputy commanded him to go on with it, but shall my Lord Deputy be blamed for trusting Sir Terence Odemsi. One ordinarily is trusted more than another, therefore out of what humor S<sup>r</sup> Arthur hath soe traduced him I knowe not, but malice appeareth. And if the fault be soe great as I have showed, I shall leave it to you. I think his majesties fine is too little. I would increase it therefore; the fine to be £2000 at the least. His Majesties property is to deale mercifully. For the dammages to the party it is matter of honor that he respecteth. I think he will not respect dammages too much. I would reduce therefore the dammages to 2000<sup>l</sup>; they should goe hand in hand, and soe my Lords is the course of the Court I take it. For his acknowledgement it is fitt to be done, and soe as M<sup>r</sup> Chancellor sayd heere and in Ireland: and that there may be a greate care in penning the sentence of this Court to sett upright my Lord Falkland in his reputation, and to be read heere and especially in Ireland that all may see the Justice of this Court.

LORD CHEIFE JUSTICE HIDE: There is difference between a petition and a slanderous libell; it is lawfull for men that are unjustly grieved to petition, but if it be in a slanderous manner, that is, if they cannot prove it, then it is become a slanderous libell and punishable heere, for they endevored heere to bring home the injustice to my Lord Falkland. Although the truth or untruth of the body of

the petition be not more in question, yet the undue manner of proceedings was necessary to be read heere in this conrt, and I knowe nothing improperly read but my Lord Sarsfield's answere, touching whom I must leave you and not condemne him unheard, but because the offence of Bushell is greater or lesser, according to his pressure; therefore were these depositions in the other cause read before your Lordshipps. Soe I come to my sentence.

For my Lord Mount Norris, I see nothing to charge him.

For Meredith, he is not proceeded against.

For Mottersell, he is to be quitted, he wrote the petition only as a servant.

For Mr Weldon the Sheriffe, whether he hath demeaned himselfe as a Sheriffe: He went presently after the attainerd and valued the goods, took them into his hands, garded and looked unto them; there is no direct proofes that they were of greater value than 300*l*; he had a minde to do goode indeed, but he had noe interest in them, noe property but as by his office to make an account: herein he did amisse, yet that he should be charged unlesse he converted them to his owne use I do not knowe; for the goods that were carried away, whither were they carried I knowe not, nor is it proved; for the sale to S<sup>r</sup> Arthur, he might sell the goods for valuable consideration; for the 200 lambes fleeces, I fynd nothyng els layd to his charge; here they are worth 3<sup>d</sup> a peece, it may be 2<sup>d</sup> there, and if a bill were to be brought here ouely for this it were to be throwen out of the court, for there is a course in Ireland, a Starr Chamber and an Exchequer there; and for this commission, which he denyed to obey, I confesse it was a strange course to alter the income of the Kinges revenue into the Chancery. What account could there be made of this to the King? and, besides, he spent 40*l* in looking to the goods; I therefore quitt him both for this and that other charge of raising the sclander, for that there is nothing against but out of the mouth of a single witnessse.

For S<sup>r</sup> Arthur Savage, I would single him out as the greatest offender in casting this slander upon my Lord Viscount Falkland,

then Deputy in Ireland ; whether he hath wronged him out of malice or ignorance, he hath wronged him, and in soe foule a manner that he could noe other way be righted than by examination in this court. He is charged for diverting the petition, and to preferre it to my Lord Duke, and affirming the petition was true, and therein was conteyned that my Lord Falkland and the Judge agreed together unjustly to convict Bushell the father, and to make a prey of his estate. This was without doubt matter of great scandall. Let the Judge be unjust, the Jury foresworn, yet it is an unjust slander upon my Lord Falkland, the King's deputy ; yet he is to be blamed for saying in the petition and letter that Bushell was unjustly executed, and that by practice, etc. And there is another circumstance, to have his hand in the petition and letter, and yet to cleare my Lord Falkland upon his oath that he thought in his confidence he knewe not of the undue proceedings, nor had any penny of gaine. Whatever his meaning was, it seemeth he conceived my Lord Falklan guilty, heerin therefore I cannot cleare him. Whether he did reade the petition I knowe not, and though he did all this, yet it was by way of mistake, not out of malice. Therefore I thinke the fine of 1000*l*, and for dammages 1000*l*, is enough to be sett upon, which I doe accordingly sett, for it is not the greatnessse of damages will repair my Lord's honor, but the clearing of his justice.

For Philip Bushell : These depositions being read, if they be true, yet I would be tender of my Lord Sarsfield's reputation, if these thinges be true, as in the depositions they are sett downe, that the Jury was carryed into a private chamber and there evidence was given them, and then goeing away to consider of it, then to be threatned with a fine if they found it not, and the Judge himselfe to set his hand to the indictment in that manner, indeed the Clarke of the peace or of the Crowne sett their hands to shewe they have drawen it with care, but that the Judge should sett his hand at all I never sawe it or heard of it before nor doe I thinke I shall againe : Then for the Grand Jury to fynde *ignoramus*, and then to fyne 4 of them, and to discharge them and fill up the Jury with 4

others, this is unlawfull. If they had concealed he might have discharged that Jury and charged another to inquire of their concealment, this had been lawfull: and to threaten the Jury of life and death, I shall remember a saying of the Lord Chancellor, my Lord St. Albon, in his advise to all Judges: *You shall meete with ignorant Juries, your duty is to open their eyes, you may not leade them by the nose:* againe to refuse to heare his servants, to sweare them he might refuse because it was against the King. There was never a traytor or felon but a just Judge will and ought heare what he can say or any for him: I doe not say, nor yet perceive that these proceedings were lawfull, I leave the Judge therfore to cleare himselfe heerafter, if he can: But thus much appearing for the present I conceive Bushell a person grieved. Mr. Atturney sayes, Well, he is poore, and yet must not presently speake evil of the governor: But my Lord Deputy being thus accused by Bushell for joyning with my Lord Sarsfield in these undue proceedings, hath donne well to complaine of it and to cleare himselfe heere: But there were some suspitions that my Lord Deputy should direct my Lord Sarsfield, first to send him into his owne Country, against the Statute here, and of force there in Ireland too, and then upon a letter written by the Deputyes servant about the imbezzelling of the estate, and then sending an undue commission,—all these things might breed some suspect: yet, though Bushell be poore and despicable, yet being wronged, it is fitt he should submitt himselfe to my Lord Falkland, and I discharge him of all the rest.

SIR JOHN COOKE.—Heere is a great cause trenching upon the honor of a noble gentleman, and upon the honor of the King and State. It hath fallen out to be heard disadvantagiously for some, I do not say for the party plaintiff or defendant. The defendants have their fines diminished by some extrinsicall cause, it being thought fitt to read matter of diminution. This I must say, for the honor of this Court, that matters of scandall have never been brought heere but they have been thoroughly sifted, but the Judge is not a party; yet all that hath been sayd to-day

is to shewe him guilty, for that this is the misfortune of the man to have his cause heard before he is prepared to speake for himselfe. Justice is to proceede moderately, and if we have but an apprehension of condemning this man we shall doe him injustice, although it fall out to be his just censure. For his awnere if he can prove and justify what he saith, he may stand upright; but that he cannot be quitted or condemned is his misfortune at this tyme. Let him therefore stand or fall, and he shall cleare himself when his owne cause is heard.

My Lords, I will come to the defendants in order: That which makes me sensible of this which I deliver to your Lordshipps is that, taking for a ground all that is said against the Judge is true, I shall proceed against them all. The cause is either a charge upon them about the undue tryall, or els for the imbezelling the goods concerning the tryall. S<sup>r</sup> Arthur Savage is charged for joyning with Philip Bushell in laying the slander upon my Lord Falkland, as that this undue tryall and conviction of olde Bushell were be<sup>a</sup> confederacy betweene my Lord Deputy and the Judge: S<sup>r</sup> Arthur, being a neighbour, might be bayle for him as a Justice of Peace, but give me leave to differ a little in opinion from M<sup>r</sup> Chancellor, who sayd that it was noe fault in him. He was a Counsellor of State, and it gave courage and countenance to the party, as the Judge Anger<sup>b</sup> observed: But to follow others in shortnesse, S<sup>r</sup> Arthur Savage had 40 wethers, his soouldiers and men kept the goods, he had a bayliffe there, and refused to obey the Commission when it came, and this participation of the goods I account censurable in this Court. I come now to the slander, allowing the substance of the petition to be true, and allowing that S<sup>r</sup> Arthur, being a Connsellor of State there, might appeale to the Counsell of State heere for redresse in so foule a cause, joyning with Bushell to doe it, yet that this scandall should be raised upon my Lord Deputy, and after to be published by S<sup>r</sup> Arthur, for I fynd proved he told the Duke and Stockdale the Secretary that the petition was true, and

<sup>a</sup> i. e. by.

<sup>b</sup> Lord Aungier, Master of the Rolls.

yet to deny that he sawe it, and this charged my Lord Falkland for perverting justice out of hope of gaine, and yet upon his oath to cleare my Lord Falkland, in his answere to the Interrogatories, that he thought in his conscience he had noe penny of gaine, nor knewe of the unlawfull proceedings. I cannot avoyd tbiſ to be a great fanlt in S<sup>r</sup> Arthur, and a great offence, and therfore fit to be censured in this Court, and for the censure I doe concurre with Mr Chancellor that went before me, 1000<sup>l</sup> to the King, and 3000<sup>l</sup> to my Lord Falkland, and the sentence to be carefully drawen up, and to be read in Ireland, and S<sup>r</sup> Arthur to make acknowledgment heere at the barre in this Court, and at the Counsell table in Ireland.

For Mr Weldon, I thinkē him not guilty of any thing of the conspiracy of the scandall. I should willingly inclyne to deale favourably in censure of him, but that other men that are officers are not to be incouraged to such offences. For imbezilling and denying the goods when the commission came, I fyne him 1000<sup>l</sup> to the King. For S<sup>r</sup> Terence Odemsi, if he were in the bill, I should fyne him.

My Lords, I come to Philip Bushell, who is the contriver and publisher of this scandall, allowing his father was unjustly condemned, he hath the benefitt of nature to complain of it, but his was not in hott bloud, it was a yeare and halfe after his father's death, not when the goods were in hands. I blame him for taking ill counsell to sell away his father's bloud for hope of composition. He first petitioned the King, then intended to petition the parliament: this was diverted, and preferred to my Lord Duke; but when he petitioned the King he did not nominate the party, the King being allwayes in all these proceedings very carefull he would knowe the party, but Bushell refused. My Lords, I tender the care a sonne should have of the death of his father, but it appeareth he hath been carelesse of his father and mother their death. I should, if all this had not extenuated, have appointed him some corporall punishment, but I fyne him as Mr Chancellor hath donne 500<sup>l</sup> to the King, and 500<sup>l</sup> to the party, which I sett upon him the

rather to presse him to goe on with his cause against the Judge and Jury which, if it be true, was soe foule he hath hope to be restored againe.

For my Lord Mount Norris I cleare him, only I wish peace and agreement between the governors there. For the other defendants there is nothing proved to make them guilty. But to end with what I beganne, a little concerning the Judge; he is an eminent man; you have heard the depositions wherein is a manifest discovery of partiality; it is fitt that the cause be brought forth to be heard, and that if these things are true so foule a thing may be punished, it may doe good to justice, and be a provision that hereafter it may stand upright, and such clamour noe more to be heard of in that kingdome.

S<sup>r</sup> THOMAS JARMIN: I was present at the beginning of this cause but was prevented by sicknesse upon other dayes, and therefore I forbeare to give any sentence in it.

S<sup>r</sup> HENRY VANE: Here is a great cause, which I finde to be great in respect of the nature of the cause, and in respect of the persons whome it concerneth, my Lord Viscount Falkland, plaintiff, S<sup>r</sup> Arthur Savage, The Lord Mount Norris, Walter Weldon, Philip Bushell, and Mottersell, defendants: For two of them briefly I shall acquitt them, my Lord Mount Norris and Mottersell. For the 4 others I shall crave pardon to be a little longer then usuall. And first for that which was read by the defendants Counsell for the gultinesse of the Judge in this fact, I first declare that I doe neither acquit nor condemne him, I say nothing of the particulares, but if my Lord Sarsfield have misbehaved himself this cannot touch upon my Lord Falkland, therfore I am to proceed against the defendants as they are more or lesse faulty therein. And I beginne with S<sup>r</sup> Arthur Savage the greatest offender: I have been very attentive and would have been glad to have taken hould of any thing for his advantage and excuse, but it falleth thus upon him the petition and the letter agree on the ground of the complaint to be true, and that my Lord Deputy joyned unto my Lord Sarsfield

to put Bushell to death, Sir Arthnr affirmed this to be true ; but I fynd S<sup>r</sup> Arthur guilty before the conviction, and after the conviction, before, in that he arose from the being in a rage against the Judge, though he were unjust, let him stand or fall in his owne place : after the conviction, he diverted the petition to the Duke and tould Stockdale that the petition was true and he would make it good, and is the greater offendour because he hath nothing to excuse him ; I shall therfore fine him 2000*l* to the King, and for the damages of 3000*l* to my Lord Falkand. I shall not diminish him, I love extenuation well, yet, when a cause is judicially heard, we must goe according to the course of the Court, and I shall joyne with any that goeth higher.—For Weldon, I take him to be guilty of markeing the sheepe unduely, and for imbezzelling the goods and for denying to obey the commission which he should have obeyed, and therefore I concurre with M<sup>r</sup> Chancellor for his fine of 1000*l*. For Bushell his case is to be lamented, I confesse ; he may be wronged : yet if my Lord Sarsfeild hath offended he should not have laid it upon my Lord Deputy, a third person ; therefore I concurre with his highest fine, 500*l*. For my Lord Mount Norris, I doe not cleare him from culpa, though I shall not censre him in this case ; but he is to be admonished heereafter not to whisper away the fame and credit of Deputies and governors. He saith my Lord Deputy did not governe well, and letters were written into England against him. He tolde Stockdale he thought the petition was true, he was very inquisitive about it, and he seemeth he was no good friend of my Lord Falkland's. I shall therfore goe thus farre forth, I would have his sentence justly and carefully penned and read at the Counsell table in Ireland, at the Assizes at Kildare, and to be recorded in the Castle Chamber for the Deputies honor and clearing of his reputation.

S<sup>r</sup> THOMAS EDMONDS: In this greate cause of scandall thrown upon a nobleman of royal authority in the Kingdome of Ireland, it is for practising unjustly to take away the life and estate of a gentleman in that Kingdome. It was necessary for my Lord Falkland to

cleare himself in this Court by a thorough examination of the thing for as this had been a great fault in him, if he had been guilty, soe seeing there is nothing fastened on him, it is needful that a remarkable example be layd upon the raysers of such and soe great a scandall. This place was conferred on my Lord Falkland after his long and approved service to the King's Majesties father, and ever knownen to be free from covetousnesse.

As for the defendants, I confesse there is cause to suspect the proceedings in respect of the *ignoramus* and other considerable circumstances, yet, what was this to my Lord of Falkland? His reputation is cleared by the defendants themselves: For S<sup>r</sup> Arthur Savage, he is plainly guilty of raysing and publishing this scandall, I fine him to the King and for dammages with the highest: For Weldon, I fynd him not guilty of the practice for the slander, but for the imbezelling the goods and concealing them, and refusing to obey the commission; I therfore fyne him 1,000<sup>l</sup>. And Bushell, I fynd guilty of contriving and publishing the scandall, as sett forth in the bill, for which I fyne him 500<sup>l</sup> to the King, but noe dammages, because of his pressure, etc. My Lord Mount Norris and Mottersell are to be quitted. Meredith is not proceeded against. And the sentence is to be carefully drawen up and carryed into Ireland, read in the Castle Chamber and there recorded, and S<sup>r</sup> Arthur and Bushell to make recognition to my Lord Falkland heere at the barre in this Court, etc.:

LORD NEWBURGH, Chancellor of the Dutchy: What I shall say in this cause shall be the clearing of the plaintiffe and for sentencing of the defendants. First, heere is a foule imputation layd upon the complainant, as if he had for gaine perverted justice to take away the life of a man, but all is cleared, and he stands innocent. For the defendants censure I concurre with S<sup>r</sup> Henry Vane in all points, and soe leave it to your Lordshippes.

BISHOP OF WINCHESTER: For my Lord Mount Norris, I fynd soe much fault with him that I should have sentenced him if

any had gonre before me in it. Against the other defendants, the charges are concerning the goods of Bushell and the scandall. For the goods, I doe holde it fully proved that S<sup>r</sup> Arthur and M<sup>r</sup> Weldon made advantage of this estate to the King's losse. For my Lord Deputyes sending of the Commission out of the Chancery, it might be because the rest of the Judges of the Exchequer were abroad, and it was not M<sup>r</sup> Weldon's parte to dispute, but obey it. I therfore concurre with those that have sett 1000*l* fyne upon him. For the conspiracy and scandall, I must say it had been a great offence in my Lord Falkland if he were gnilty of it, and noe punishment had been great enough for him ; I thinke the poysen of the creatures in Ireland is all in the men, and therefore none in the creatures besides. My master that is with God, King James, knew this man to be a man fearing God, a man of good courage and hating covetousnesse, as Jethro counselled Moses to choose his judges, or els he would not have sent him into that Kingdome. I doe not arraigne the Judge, nor make it the worke of this day ; I feare it will prove a president of great danger to all Judges for a cause after 7 or 8 yeares upon a backe reckoninge to be thus scanned, but yet God forbidd, if a Judge shall behave himselfe corruptly but he should be punished for it. The scandall is great that my Lord Deputy should joyne with the Judge to make advantage of the man's goods, and yet this the defendants cleare my Lord of in their own consciences. For S<sup>r</sup> Arthur Savage, if I should judge *ex conscientia*, I should thinke Bushell never penned this petition alone, but I rather thinke S<sup>r</sup> Arthur and my Lord Mount Norris had a hand in framing this, they gave forth words that they would never come into Ireland while my Lord Falkland was there, and that he was come over into England to answere ; and S<sup>r</sup> Arthur dictated the letter, and therfore for him I doe thinke fitt and doe fine him to the King and assesse him to pay dammages to the party as the highest censure goeth. And for Bushell, I doe concurre with my Lord Cheife Justice Richardson for his fine and corporal punishment. And that S<sup>r</sup> Arthur and Bushell

make their submission and acknowledgement in verbis conceptis to my Lord Falkland in this Court, and the sentence to be well and carefully drawnen up for the honor of my Lord Falkland.

LORD WENTWORTH, Lord President of the Northe: Heere are some things extrajudicially to be noted, of all which difference and faction betweene Governors is the *medius terminus*. I fynd the Kings duety lost in gathering; I fynde a Lord Deputy slandered; I fynd an innocent olde man brought with sorroewe to his grave. These are grevious things, and how other things should be expected where there is nothing but passion and anger among Counsellors of State I knowe not, and if this be not removed, that people cannot be well governed. My Lords, I think it was fitt these should be read for the clearing of the innocent, and that the whole cause should be heard hereafter. Yet I would not be mistaken as if this were anything to my Lord Falkland, and yet I doe not condemne the Judge; he is not charged before us, and I blame the Jury lesse, for they heard not this cloude of witnesses, etc.: but to cleare bloud that is inexpiable, I think this should be heard, and that Mr Attorney be ordered by the Court to take care of the cause that it be brought forward; it concerneth his master. For my Lord Deputy to send another Judge then ordinary was point of jurisdiction, and the Chancellor was much more to blame then my Lord Deputy to contest about it. For my Lord Mount Norris I must blame him, but cannot sentence him. But for him that swore he would follow the olde hounde Bushell to hell gates, let Mr Attorney take care that he be brought to the gate of justice. For Bushell he is the contriver of this scandall, he is a sonne robbed of his Father; somewhat must be given to nature, and there was a ground of complaint, though not against my Lord Falkland. I agree therefore for his fine and acknowledgment with Mr Chancellor of the Exchequer, and that he make this recognition heere at this barre and at the Assizes at Kildare.

For S<sup>r</sup> Arthur Savage, I fynd him guilty of raising, following, and publishing this scandall, guilty out of his owne mouth. He

sayd the petition was true which charged my Lord Falkland of injustice for lucre sake, and yet in his conscience he is not to be charged with any such thing, had noe penny proffit, nor knewe of the undue proceedings. He contrived the letter for a composition, which was a foule practice against my Lord Falkland, to wounde him in his honor; he dictated the letter to Stockdale, the Duke's Secretary. I concurre with these that have imposed the highest judgement upon him of my Lords that have spoken, and the rest, but I adde that he make his acknowledgement heere in this Court, and at the Counsell table in Ireland.

For Weldon being a Sheriffe and a sworne officer and servant to his Majestie, and yet to make away 1500*l* from the King, soe as he hath donne, I thinke him worthy to be fyned, for by his owne confession the estate was at first 2,000*l* at least, but when he seiseth it the highest value is 500*l*, therefore I sentence him, as M<sup>r</sup> Chancellor of the Exchequer, to pay 1,000*l* fine to the King.

My Lord Mount Noyris I quitt; every word must not rise in judgement against a man. Mottersell I quitt.

And withall I quitt my Lord Falkland that he is cleare and unspotted, and therfore let the order be carefully entred, and then a copie carried over into Ireland, and there in the Castle chamber to be read and recorded. And soe I goe with M<sup>r</sup> Chancellor of the Exchequer against them all.

LORD VISCOUNT DORCHESTER: My Lords, tyme being spent I will contract myselfe: This cause is for a complaint, nay a scandall against a President, the King's chiefe deputy of Ireland, who is plaintiff against two Counsellors of that kingdome, and Philip Bushell and others for raising this slander and against Walter Weldon for imbezelling the goods of olde Bushell, in which some other of the defendants likewise had their hands. Other matters heere appeare by an anncient Knight for prosecuting this olde Bushell in an undue manner. My Lord Falkland and S<sup>r</sup> Arthur Savage I have knownen them ever since I entered into the knowledge of any thing. For my Lord Falkland, he hath ever

borne himselfe both in Campe, in Court, and in Government soe fairly, soe frankly, and soe liberally that he was ever free from what he is accused of: S<sup>r</sup> Arthur Savage, a noble souldier, I have knownen his enemies to inquire what is become of S<sup>r</sup> Arthur Savage. I had rather have seen him as heretofore in the head of English troopes nobly demeaning himselfe then heere to sentence him. But for him to have his hand in the imbezelling of an estate, for him thus to betray his owne honor and blemish, his valour and repute, by contriving this slander against my Lord Deputy under hand, and being a Minister of State and heeretofore a good Counsellor to be the leader of factious, this doeth not become him, for him to attest the petition, and to subscribe to it by drawing and dictating that letter it makes him deepliy guilty. What an high crime was this for my Lord Falkland by an act of justice and by a corrupted course therof to take away a man's life; to kill with the sword, to poysone is not soe foule a murther. There is a law which I have read of, that the false accuser should have inflicted on him the same punishment which, if the accusation had been true, had been due to the accused. To beginne therfor with S<sup>r</sup> Arthur Savage, his hand is deepe in both the crymes charged in the bill, and therefore I cannot but concurre with the highest sentence upon him.

For Weldon it appeareth plainly, that he imbezelled the goods and denyed to obey the Commission, and therefore I agree in like manner with setting the fine of 1,000*l* upon him.

I quitt Mottersell.

And for Bushell, in respect of what hath been spoken I cannot but pitty him, although he is greatly faulty in his virulent termes and charging the same upon my Lord Falkland; and therfore I fine him 500*l* to the King. And as for the cause against the Judge, I am sorry there is soe much said and read of it, he being not before us in a judiciall way, therfore I put this man Philip Bushell in the King's mercy 500*l* as I have said, and for my Lord Falkland that he make his acknowledgement unto him of wrong donne him, *in verbis conceptis*, in this Court.

For my Lord Mount Norris, I fynd matter enough to sentence him for his words to Stockdale and others, that he would not goe into Ireland till my Lord Falkland were removed, but because it is now too late I doe not sentence him. For the faction it is lamentable and it were to be wished it were as soone holpen as the fault found. My Lord Falkland is cleare and hath the reporte to have been the justest of all that ever came there, and for the King's good he hath suffered. And in respect of his Majestie he is fully satisfyed of all these, and hath made him Commissioner for Irish affaires: To conclude I desire and soe order that the decree be carefully entred, to sett upright my Lord Falkland's reputation, and that it be sent into Ireland and there read and recorded in the Castle Chamber.

EARLE OF DANBY: My Lords, heere is much tyme allready spent, I shall be shorte: My Lord Mount Norris I acquitt, being not subject to the sentence of the Court: And Mottersell, I doubt him to be a practiser of the slander against my Lord, if he had been a common scrivener I should have passed him by, but I love not to be singulare. Weldon, I am for the fine of 1,000*l* upon him, and yet I thinke we shall in it censure the whole Governement in Ireland for letting this man come hither unpunished, at least we censure the Exchequer. For Bushell, I pitty him, but because of his offence against my Lord Falkland, the dishonor redounding to his Majestie soe unjustly, I fyne him 500*l*, and order him to make satisfaction in all kindes by publique acknowledgement of his fault to my Lord Falkland heere in this Court: For S<sup>r</sup> Arthur Savage I concurre in my sentence against him with M<sup>r</sup> Chancellor of the Exchequer, other things have been moved, to sett upright the reputation of my Lord Falkland by the sentence, and to have it read and recorded in Ireland in the Court of Starre Chamber there, and to mynde Mr. Attorney of taking care to bring that other cause against the Judge to hearing: all which I think fitt and doe order.

EARLE OF DORSETT: It is well donne to have an eye to the absent Judge. I see not but he may well stand upright, when he hath justified his answere, as I doubt not but he will: My Lord

Mount Norris is a defendant, but not a delinquent. I could wish there were better agreement betweene Ministers of State, in the mean while how is that Kingdome governed, how is our great Master served? Factions in superiors breed dangers.

For S<sup>r</sup> Arthur Savage, he is the *primum mobile*, the *ignis fatuus* that misleads all the rest. I would to God I could heere speake of his praises and not censure his person, he hath been in tymes of trouble a souldier and in peace a Counsellor; now, if he breake the rules of both, the greater is his fault. To strike behind, to worke under ground like a mole, to flinge a stone behinde one's back that none may know who hurt him, to cut a man's throat with a whisper, this is not the parte of a souldier. For him to come by the Duke's letter in this manner, by way of friendship, both to abuse my Lord Duke, to pretend favour and love to my Lord Falkland, and yet intend to doe him hurt, this is knavery. This advice was given my Lord Duke in the tyme when the house of Commons sate where the Duke was not favoured. My Lord Duke tould me of it, he was assured my Lord Falkland would not soe basely complye, and that he intended to try him onely. Now, as he is a Counsellor, must S<sup>r</sup> Arthur Savage contest with a superior to countenance offenders to detract from Government? For the Vulgar to doe this were a light thing, but for these Governors to doe soe, perverting all order, and it concerneth the justice and wisdome of the state to keepe men's affections in due place. I come to the censure of S<sup>r</sup> Arthur Savage: I thinke him the contriver of this scandall, as infamous a scandall as ever was; on my conscience he was the very inventer, to shed bloud, and that with the sword of justice, and to take Naboth's Vineyard from him. The Italian lawe is a good lawe, but to lett that goe, I doe concurre with the highest censure against him.

For Weldon, his name is well don but he hath ill donne; he hath imbezzelled the goods belonging to the King's Majestie, I thinke fitt he should pay therfore 1,000<sup>l</sup> to the King. I believe he did slander my Lord Falkland too, but there is but one witnesse for it, and therfore for that I cannot censure him

Mottersell, I quitt him because nothing is proved against him, not because he wrote the petition to quitt an olde debt.

For Bushell, because of the lawe of nature, I fynd noe fault with him for presenting his petition, but for not proving it; yet I shall not fyne him. For that which was said heere of the Judges cause and the Jury was coram non judice. For my Lord Falkland he is cleare, and standeth upright, *magna est veritas et prævalebit*. Let the sentence be drawen up carefully to cleare him, and be read and recorded as hath been moved.

**EARLE OF PEMBROKE AND MONTGOMERY:** I sentence S<sup>r</sup> Arthur Savage with the highest, and Weldon with the highest, and for Bushell I agree with my Lord of Dorsett not to fine him anything; the rest I quitt.

**EARLE OF ARUNDELL:** For the plaintiffe heere my Lord Falkland I say this; I have knownen him long, and have loved him longe. He ever loved justice, and he hath brought these defendants to an honourable tryall. For S<sup>r</sup> Arthur Savage I thinke him now, whatever his defects are, that he is as malicious an enimy as my Lord Falkland hath any, and I sentence him to pay 2,000<sup>l</sup> to the King and 3,000<sup>l</sup> to my Lord Falkland. For my Lord Mount Norris I cannot fyne him nor commend him. For Weldon I thinke he deserveth the fyne of 1,000<sup>l</sup> sett on him, though I thinke him to be guilty of the slander too. For Bushell, an unfortunate sonne of an unhappy father, being provoked, he did well to complaine, but not upon my Lord of Falkland; I discharge him of the pillory, but not of his fyne of 500<sup>l</sup>. For the governement of that Kingdome it were to be desired good Governors, and such as would be peaceable were sent. And I thinke the chiefe and best able man heere would doe well to be sent thither, for they are all on fire. I would have the sentence of this Court well penned, and sent into Ireland to be recorded. And for the Judge I do not condemne him, because I desire that this cause be brought to open and faire tryall, and that my Lord Keeper would take notice to move it to the King.

**LORD PRIVY SEALE:** Heere are 6 defendants in this cause.

Two of them I shall acquitt, yet one of them I shall admonish, the Lord Mount Norris. I see in him the faction and action of malice; he was very inquisitive; satis est that he goe unpunished: For the other S<sup>r</sup> Arthur, Welden, and Bushell I shall censure them all. But first I say, for that which hath been read heere of the other cause against the Judge as farre as concerned the point in question, it is to be noted, Bushell could not have made any defence at all if it had not been read, nor could my Lord Falkland's honor have been cleared. For my Lord Sarsfield he endeavoured to demurre and stoppe the proceedings heere that way, but Judges have noe such privilege, if a Judge shall behave himself partially he is punishable heere. For Welden, he returneth his owne brother foreman of the Jury. He is putt out. He seized the estate the same day the conviction was. He left out some goods out of the inventory, suffered others to be carried away. My Lord Deputy was advised to send a Commission. He did soe. Mr. Weldon disobeyeth it. The second tyme he showed his dislike and offered the Commissioner 100<sup>l</sup> to sitt still, and therfore I censure him as high as any before me have donne. For Bushell, I will not blame a sonne for compayning of the unjust death of his father; but he would, as hath been observed, have soould his father's bloud for bread. Could he have gotten anything he would have compounded. Then, after he could have noe parte of the goods, then he came to the King, but would not lett the party be named. I concurre therfore for his fine of 500<sup>l</sup>. He was a coachman, and a good driver, but not the contriver of this petition. As, when the woman of Tekoa came with a tale of bloud to King David: Oh, saith David (a discerninge man), is not the hand of Joab with thee in this? Certainly S<sup>r</sup> Arthur Savage is the contriver of this without doubt. I come therfore to this Joab, the driver on of the scandall, S<sup>r</sup> Arthur Savage. And I note out of the proofes 5 things against him. 1. He said to the Duke and Stockdale all the petition were true. 2. He tolde Stockdale that the plaintiff countenanced the cause against Bushell. 3. He said my Lord Falkland sent my Lord Sarsfeild on purpose to execute Bushell. 4. That he had tould the Duke great and foule matters of

this cause. 5thly. For contriving the letter, which is the foulest practise to intrappe him. The fact is soe foule that I marvaile we went noe further. For his fine I concurre with the highest, and for dammages, 3,000*l*, and to make confession of wrong donne to my Lord Falkland at the barre in this Court. And this sentence to be well drawen, and the transcript to be sent into Ireland, and there to be recorded for my Lord's honor.

LORD KEEPER: This cause hath had a patient and honorable hearing, and hath received an honorable sentence by the vote of the Court, and I am sorry, seeinge tyme is soe farre spent, that I should spend any tyme in it. The Country of Ireland is full of boggs on the ground and mists in the aire, and if these great mischeifes had not been mett withall in tyme there might have been some great blemish given to the State of this Kingdome also. If my Lord had been faulty faction would have found it, for that now my Lord Falkland is by the justice of this honorable Court cleared, and like gould for tryall is the brighter. He hath put himselfe upon tryall, and was not called to it, and now it appeareth my Lord is cleare in every circumstance, and therfore the sentence is to be drawen up to cleare him, to be read heere and in Ireland, and to be inrolled in the castle chamber.

To proceed now to the worke of the day and to shewe your Lordshipps whom I shall fyne and whome I shall not fyne. One I cleare because he is not proceeded against: Mottersell is cleared by the vote of the Court and I cleare him too; My Lord Mount Norris I doe not censure him; but, in respect of the opinion of my Lords, I thinke this deserves an admonition to my Lord Mount Norris, but being that he is not charged but onely by interrogatories and depositions wyder then the bill, which is not the course of the Court to sentence in such a case.

For Mr Weldon he hath two charges upon nim, but there is onely one witnesse for the publishing of the scandall, and therefore he is not to be touched for that scandall against my Lord Falkland, yet, in some cases one witnesse shall be enough to convince as if a Sheriffe be indicted for extortion, and there are divers extortions

proved, and every one is proved by one severall witnesse and noe more, in this case it is enough and soe for other offences of the same nature: But, whether he be guilty for censure in the other parte of this bill for the embezelling of the goods, I shall make bould to shewe my opinion, that I shall not fine him and I will shew you my reasons. It was said he was worth 3 or 4,000*l*. When he was first accused, he might be soe reported, but he was a meane man, and went out of Devonshire over into Ireland; it was not in hangings nor in jewells, his flocke upon his ground must be noe more then could be kept upon his land, that was when it was seised but 500*l* worth, and that S<sup>r</sup> Terence Odemsi had it is proved, some things were carried away before the seizure; all that is proved is that the Sheriff did not make deliverance of 400 sheepe, but marked them in his own marke, and 200 lamb's fleeces; he was at a great deale of charges, and these were not of soe greate value as to charge him in this Court. I hould it a dangerous president to doe soe, he might have or hath passed his censure and account in Ireland, for my parte therefore I cleare him too; and, for that other thing, if he lawfully seised the goods he might make sale of them, and heerein was noe disobedience, because there was no expresse command for his forbearance in that case.

To come to S<sup>r</sup> Arthur Savage and Philip Bushell: I must speake something of the justice or injustice shewen in this matter by my Lord Sarsfield. I will not condemne him nor acquitt him, because he is not before me in a judicial course. If we had not read this we should have done injustice, and I am of opinion with my Lord Privy Seale that my Lord Falkland had not been so cleared as now he is if it had not been opened, for men would have been ready to thinke there had been something else in these depositions; now all hath been considered, and nothing appeares to touch him. And it seemeth to me not soe hard a case that a Judge should answere his evil doings; if a Jury acquitt a man contrary to their evidence it is punishable heere. The tryal of life is peremptory as betweene the King and the party touching his life, but for collaterall causes it is

not fynall. Sr James Throgmorton<sup>a</sup> was a Judge, and was fyned heire for a lesse offence then this seemeth to be. You will say if a just Judge shall be called to answere, why there is noe cause if he be just, but if an innocent shall be condemned, and nothing allowed him that is equal, it is fitt it should be reviewed.

For a grand Jury to receive publique evidence I have heard of, but not to be drawen into a chamber in private. For my parte I knowe it is against the common course of the land; it is not lawfull to doe an ordinary thing in civill justice in a private chamber, but shall men's lives be overturned in private? A Judge is not to receive for life and death a privy verdict. Now, further, for a Judge to put his hand to and subscribe it, You of this grand Jury are to fynd this bill; and this testifyed by the clarke of the crowne, noe ignorant witnesse: to refuse to heare the neighbors and servants; is it not enough that a man shall not be allowed witnesses, upon oath nor Counsell, and now to deny him lawfull favour; whosoever did soe I mislike the cause: whomsoever<sup>b</sup> I doe not condemne: and then for a Judge to send a message to a Jury when one stood out against the rest “ Make much of him to night and I will make much of him to morrow,” and to tell you a story of an other Jury where the rest of the Jurors pinched and beate the Juror that would not agree till he was forced to yeeld, as who should say, “ Beate him Jurors!” Justice must be doune, yet Judges must not be prodigall of men's bloud nor let it runne in waste, but as for Philip Bushell, to<sup>c</sup> this is to diminish his sentence, for his petition to the King he cannot be sentenced, but for the petition to the Duke and therein chargeing my Lord Falkland he is sentenced 500*l*<sup>i</sup> to the King: and if it had not been that this man hath suffered as he hath I should have sentenced him deepeley: for the Duke's letter I cannot charge him with it or the openinge of it which he confesseth yet is not

<sup>a</sup> Mr. Macray has directed my attention to *Rawlinson's MS. B. 131*, which contains the defence of Sir John Throgmorton, “Justice of the Council of the Marches of Wales and Vice-President of the same.”

<sup>b</sup> ? howsoever.

\* *Sic.*

charged withall. This cause moveing every man to commisseration and pitty, I goe noe higher els I should have censured him deeply. For S<sup>r</sup> Arthur Savage, to charge him as an author or adviser of this petition, I cannot charge it upon him, for it doeth not appeare. S<sup>r</sup> Arthur Savage was in Ireland when the petition was delivered first to the King. I cannot thinke he opened the letter or was privy to the opening of it, though he dictated the letter, but all that I sentence him for is this : he meeteth Bushell goeing to Westminster, he advised him to alter it and present it to the Duke, he toulde the Duke it was true and Stockdale, he advised the Duke to send a letter to drawe my Lord Falkland to compounde, both the petition and the letter mention my Lord Falkland to be guilty, and yet in his awnswere to interrogatories he denyeth that he sawe or read the petition, and thinketh in his conscience my Lord Falkland is cleare, thus contradicting himselfe, and indeed condemninge. I thinke him therfore worthy to be sentenced, yet, because the frame of this Court is to beginne with a Chancellor and end with a Chancellor, if there be any moderation I shall agree with these that will lessen his fine, but for the dammage to my Lord Falkland I would have it to be 3,000<sup>l</sup>. Yet I would not have Bushell to pay any dammage nor fyne, for it will come to nothing, being poore ; and, if he were not, I consider he hath lost his father, lost his bloud, in consideration therefore of his unparalleled dammage I should spare him.

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[In Camera Stellata Trinitatis, 7<sup>o</sup> Caroli Regis.

|       |   |  |
|-------|---|--|
| Coram | Thoma, D[omi]no Coventry, D[omi]no Custode M[agni] S[igilli].     | D[omi]ni<br>Regis<br>Consilio<br>ib[ide]m. |
|       | Henrico, Comite Manchester, D[omi]no Custode P[rivati] S[igilli]. |  |
|       | Joh[ann]e Com[ite] Bridgewater.                                   |  |
|       | Will[elm]o Ep[iscop]o London[iensi].                              |  |
|       | Ric[ard]o, Ep[iscop]o Wintoniense.                                |  |
|       | Nich[ola]o Hide, M[ilita], D[omi]no Capit[ali] Just[iciario]      |  |
|       | Banci R[egi]s.  |  |
|       | Thoma Richardson Mil[ite] D[omin]o Capit[ali] Just[iciario] de    |  |
|       | Banco.  |  |

Betweene John Smith - - - - Plaintiff, and  
 Benjamin Crokew and Thomas Wright - Defendants.

**The Bill.**

The plaintiff's Bill showed that there had been a long suit in the Chancery betwene the plaintiff Smith and the defendant Crokew about lands belonging to the Free Schoole of [Wootton Under-edge] in Gloucestershire, and this suit was directed to be there sued by the Judges of the Common Lawe, and this was heard so far: the possession was decreed to the schoole, and all other estates to be cancelled, and the schooles estate to be surrendered to the King with purpose to graunt the same backe againe to the schoole. It was ordered further that whereas Smith had been long in possession of the Mannor or Lordship of Wallens Court, being his own fee simple, and his lands lying intermixed with the schoole lands he should have a lease for       <sup>a</sup> yeares of the said lands in question. The King made a new graunt by his letters patents and founded the schoole, and the lease is made to Mr. Smith accordingly. That divers good ordinances were made for the ordering of the schoole, 40 markes per annum raised for the master, and 4<sup>l</sup> a yeere for 4 poore schollers goeing to the Universty, that Mr. Smith hath improved it to the payment of 4<sup>l</sup> more to a poore scholler, That the defendant Croker had to the scandall of the Court of Chancery, of the late Lord Chancellor, of the Lord Keeper, and the King's Connell, printed and divulged a scandalous booke to the number of 400 copies, divulged them in Somersetshire and Gloucestershire and London, and Wright the defendant being a booke seller in Bristol shoulde many of the bookes, and complayned particulairely that the said booke conteyned a scandalous frontispiece and 12 principall sclanders and scandalous passages in the booke nameing the severall pages, and that it was also to the scandall of the plaintiff Smith, the bill prayed the calling in of this

<sup>a</sup> Blank in MS. See Burns' *The Starchamber*, 120.

<sup>b</sup> Blank in MS.

scandalous libell to be burnt and for repaire of the plaintiff's reputation.

The defendants made noe defence by Counsell, but after an affi- Answeres. davit read for serving of the subpena *ad audiendum indicium*, the defendants answeres were read. Crokew answered that there had been many unjust suits between the plaintiff and him wherein the plaintiff had wronged him, that he caused a breife relation of all to be printed to inform the Court of Parliament and kept his booke being printed from publishing till the parliament was sitting and then gave some of them to his friends ; he intended not to lay scandall upon any, but to lay the fault upon the plaintiff onely, and he hath not put to sale any of the bookes and soe Not guilty, etc.

Thomas Wright answered, That Crokew tould this defendant he had printed such bookes and would desire him to sell some of them for him, and after 30 bookes were sent by the carrier to him that he sould them not thinking they were scandalous, and he thought they were not when he read the booke, and soe Not guilty.

The plaintiff's Counsell shewed the scandals of the booke, and Prooferes the frontispiece : A true relation of the strange passages in causes between Smith and Crokew, especially in a cause about the Statute of 43 of Eliz. of charitable uses, wherein Smith hath abused his Majestie that late was, my Lord Bishop of Canterbury, my Lord Chancellor, my Lord Keeper in getting the possession of the said schole Lands, for which Crokew hath a bill now depending in the Parliament, intending thereof to discover Smithes practises, etc. and sett forth the other scandals therein, etc. And read the examinations of the defendants upon their answeres, wherein the defendant Crokew confessed he caused it to be penned and it was donne by a servant of the now master of the Court of Wards and agreed with one for 9*l* to print them, etc.

The Court in their sentence condemned this booke for a libellous Sentence. and scandalous booke and declared that to print or write breifes of a cause before the hearing and to divulge and publish them is to be accounted scandalous and libellous, because it tendeth to make a

privat information of the cause: the Court therefore ordered that this booke, as many of them as could be gotten, should be brought to the publique Assizes at Gloucester and there burnt, Crokew to pay 500*l* fyne to the King and Wright 100*l* for selling some of the bookes (for if libells are printed it is not warrant enough to any bookseller to put them to sale): and both to be imprisoned according to the course of the Court and the sentence to be drawen up to cleare Smith in his reputation.

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[In Camera Stellata, 17 Junii, Trinitatis 7° Caroli Regis.]

|       |  |                                |
|-------|--|--------------------------------|
| Coram | Henrico Comite Mancester dno C[ustode] P[rivati] S[igilli].          | Dni Regis<br>Consilio<br>ibid. |
|       | Thoma Vicecomite Wentworth.  |                                |
|       | Will[elm]o Ep[iscop]o London[iensi].                                 |                                |
|       | Rico Epo Winton[iensi].  |                                |
|       | Nicho[lao] Hide, Mil[ite], Capit[ali] Just[iciario] de Banco Regis.  |                                |
|       | Thoma Richardson, Milite D[omi]no Capit[ali] Justic[iario] de Banco. |                                |
|       | Humfrido Davenport, Mil[ite], Capitali Baron S[ca]cc[arii].          |                                |

Between Richard Waterhouse - - - Pl[ain]t[iff] and  
S<sup>r</sup> Arthur Ingram d[efendant] ad  
requisitionem - - - - - Defend[entis].

Bill.

The plaintiff's Counsell opened the Bill consisting of three several charges, 1. for forgeing of a deed of assignement of an old lease made by the Prior and Convent of Lewes of certaine lands at Hallifax in Yorkshire, and that the said assignement was made to bear date 12<sup>o</sup> Jacobi, that this was not published till the 20<sup>th</sup> of

King James. 2. The second charge was for procuring a Release of the said lands in question from Robert Waterhouse a middle brother betweene S<sup>r</sup> Edward Waterhouse and the plaintiff, while the said Robert was *non compos mentis*. 3. The third charge was for indorseing the plaintiff's name as a witnesse to a deed of Indenture about 6 Jacobi wheras the plaintiff was noe witnesse to the same deed. It was confessed by the plaintiff's Counsell that two of these charges were mistaken, and that the originall conveyance was made to the defendant but the release from Robert was made to S<sup>r</sup> Edward Waterhouse the elder brother of whome S<sup>r</sup> Arthur Ingram purchased the lands in question, and soe for setting the plaintiff's name it was mistaken; but for the third charge they shewed that divers tryalls at the law there had been and verdicts and judgements for the plaintiff William Waterhouse; and that afterwards in the Court of Chancery at an hearing there the defendant produced the said assignment by one Miller bearing date 12<sup>o</sup> Jacobi, whereas there was noe such deed, and this they proved by witnesses that a deed of 12<sup>o</sup> Jacobi was produced in evidence to the Court of Chancery, wherupon it was decreed there for the defendant.

The defendant justified his purchase, and denied the forgery Answere. and the other crymes, and justified an assignement by one Miller dated 1612, Anno 10 Jacobi Regis, and produced the same to this Court, and proved by his sollicitor and others that this was the deed he then produced, and shewed in evidence to the Chancery. The defendant's counsell shewed it was a most foule and scandalous bill against a gentleman of great worth and service to the King, secretary of the counsell established in the north partes; and that often tymes motions were made in this suit when the court was full against S<sup>r</sup> Arthur Ingram for forgery, and it hath been loudly talked of in Yorkshire; and soe they pray the court to consider S<sup>r</sup> Arthur's creditt and the King's service and for dammages, and offered to shewe presidents in such cases where dammages were given and men sett upon the pillory.

The sentence. The sentence of the court was that S<sup>r</sup> Arthur Ingram was cleare of the forgery and other crymes, that the bill should be taken off the fyle, that the plaintiff should pay a fyne of 100*l.* to the King, *pro falso clamore*, and 500*l.* dammages to S<sup>r</sup> Arthur Ingram, and the plaintiff to make confession of his fault at the assizes at Yorke standing upon a stoole, and at the blocke at Hallifax.

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[In the Starre Chamber, 22 Junij, Trinitatis, 7 Caroli regis].

|                 |   |   |   |   |                            |
|-----------------|---|---|---|---|----------------------------|
| Betweene Keld - | - | - | - | - | Pl[ain]t[iff] and          |
| Fairside -      | - | - | - | - | Defend[an]t and<br>others. |

Bill. The plaintiff brought his bill charging the defendants of perjury, subornation of perjury, and confederacy to indict the plaintiff of high treason at Yorke for saying these words 18 Ja:<sup>a</sup> as it was supposed by the indictment draught, viz. that the plaintiff should say, *yf it were the King's pleasure that these exactions be made, then we must needes thinke he is a very beggerly Prince or a proleing,*<sup>b</sup> that the grand jury found an *ignoramus*.

Answeare. The defendant was a constable and demanded benevolence of the plaintiff for the King, and the defendant answered upon his oath that the plaintiff did speake these words unto him upon his second comming to him from S<sup>r</sup> Thomas Hobby for a larger contribution,<sup>c</sup> and confessed he did give evidence to the grand jury to this purpose, yet the jury would not fynd the bill.

Sentence. The court was opinioned the words were spoken, though the jury in favour of life would not take notice of it by a single wit-

<sup>a</sup> 1621-2.

<sup>b</sup> Sic. ? prowling.

<sup>c</sup> To the benevolence for the Palatinate.

nesse, and therefore if this man should be punished for this it would be a dangerous president, for that every single witnesse must runne upon this rocke, either to be perjured or punished. The plaintiff's bill was therefore dismissed, and he was fyned 20*l* *pro falso clamore.*

[In Camera Stellat Michaelmas, 7<sup>o</sup> Caroli.]

Coram { Thoma, Dno Coventry, D[omi]no Custode M[agni] S[igilli]  
Anglie.  
Henrico, Comite Manchester, D[omi]no C[ustode] P[rivati] S[igilli].  
Ed[w]a[r[d]]o, Comite Dorset.  
Henrico, Comite Danby.  
Will[elm]o, Episcopo London[iensi].  
Thoma Richardson, Milite Capital[i] Justic[iario] de Banco.  
Franc[isco] Hervy Milite vn[o] alio Justic[iario] de Banco. } D[omi]ni Re-  
gis Consilio  
ib[ide]m.

Archer.

One Archer of Southchurch in Essex was brought *ore tenus*, being then charged by Mr Atturney Generall for keeping in his corne and consequently for inhancing the price of corne the last yeare,<sup>a</sup> which offence Mr Atturney affirmed to be of high nature and evill consequence, to the undoing of the poore and *malum in se*, and then desired his examination taken before the Lord Keeper might be read. His examination purported that he had seen at the tyme of his examining a presentment that was made against him by the Grand Jury at the last Assizes in Essex before Justice Virnon for the said offence of keeping in his corne and

<sup>a</sup> The harvest of 1630 had failed. For the measnres taken in consequence, see the Proclamations of June 13 and Sept. 28. *Rymer*, xix. 175, 195, and several entries in the *Council Register*.

inhanncing; and for that he had made a bargaine to sell the poore of the towne where hee dwelled rye for 7<sup>s</sup> a bushell, and afterwards refused to performe his bargaine unlesse he might have nyne shillings a bushell: he denyed this bargaine, but for his excuse said, he sould to the townes about him for the poore, wheate at 7<sup>s</sup> and 8<sup>s</sup> a bushell, and at the latter end of the yeare for 5<sup>s</sup>, and rye for 7<sup>s</sup> and 6<sup>s</sup>, etc., and some for 3<sup>s</sup> and 6<sup>d</sup> the bushell. He confessed he kept in his corne till June, and that he had 8 quarters of wheat, 60 quarters of rye, and 100 quarters of oates, and that his family were himself and his wife and daughters, two mayds, and a man; he confessed that he sould none or very little of his corne in Rochford hundred where he dwelt, though he were commanded soe to doe by the Earle of Warwick; yet for his defence he further alledged that his barne was not visited by any justices or officers according to his Majesties late proclamation and orders for that purpose, and that he had noe notice of the said proclamation and orders; lastly, he confessed he sould most of his corne at London and Chelmesford, and that he bought his seed corne out of markett, etc. His examination aforesaid was shewed to him and he confessed it to be true, and acknowledged his hand thereunto subscribed before it was read in court; and, it being read, the Lord Keep[er] demanded of Archer what he could there say for himselfe, and what answer he would make to this accusation. The said Archer sayeth that he could make noe other answer than he had made in his examination, and submitted himselfe to the mercy of the Court.

M<sup>r</sup>. ATTURNEY desired that their Lordshipps would proceed to sentence the said Archer according to his desert, and withall prayed that a precedent of a sentence given in the Star Chamber in the 29 and 30 of Queene Eliz. against one Framingham of Norfolk in the like case might be read before ther Lordshipps gave their sentence in this cause, and it was read. The said Framingham was accused upon his owne confession in this Court *ore tenus* for destroying of husbandry in making cottages of his tenants' houses,

taking away the land and letting it lye to pasture in his owne hands, and letting the cottages at deare rates, and forstalling the marketts, and inhancing the prices of corne, whereupon he was fynd 500*l.* to the Queene, and ordered to pay 40*l.* to the poore, and to stand upon a stoole in Cheapside with a paper on his head declaring his offence, and to lay his land again to the cotages, and to lett them at reasonable rates.

JUSTICE HARVY delivered his opinion, that whereas it hath pleased God to send a plentifull yeare, and yet the price of corne continued very high, himselfe and the rest of the Justices of the Peace that were in the last Quarter Sessions in Hertfordshire assembled did advise among themselves how they might deale with the country to bring downe the price, but they were afryd to meddle with any thing upon experiance of their ill-taking what was soe well intended by his Majestie that by the late orders, thereupon taking occasion to goe on and raise the prices of corn higher; he was of opinion that this man's punishment and example will doe a great deale more good then all their orders which they might have made at the Sessions; and therefore he declared his offence to be very great, and fitt to be punished in this Court; and adjudged him to pay 100 marks fyne to the king, and 10*l.* to the poore, and to stand upon the pillory in Newgat Market an houre with a paper, wherin the cause of his standing there was to be written, put upon his hatt, For inhancing the price of Corne, and then to be ledd through Cheapside to Leadenhall Market, and there likewise to stand upon the pillory one houre more with the same paper upon his hatt, and after this to be sent to Chelmsford, and there likewise in the markett to stand upon the pillory.

S<sup>r</sup> THOMAS RICHARDSON affirmed this offence to be an offence at the Common lawe long before the King's proclamation and orders, and also against some statutes, that his keeping in his corne and not bringing it into the next marketts by little and little as he ought to have donne, and selling it at other marketts when the price was as high as he would have it, was an enhaneeing the price

of corne, and that the Justices in Essex did at the common law inquire of such enhanceing the price of any victualls, and corne was certainly victuall, bread the staffe of mans life, and that keeping in of his corne in this manner was inhaunceing the prices of corne, which is punishable by the statute as well as forestalling, and approved of his Majesties pious and honourable care for his peoplé. Also he observed in the defendant's confession that he was guilty of forestalling the markett in buying seed corne out of markett and not bringing soe much of his owne to supply the same in the next marketts. He therefore condemned the said Archer to be guilty of the said offences, and agreed in his said fyne to the King, and would have him pay as much to the poore as the 100 marks wanted of 100*l*.

THE BISHOP OF LONDON observed with M<sup>r</sup> Attorney that this was *malum in se*, and that this Archer was guilty of a most foule offence, which the Prophet hath in a very energeticall phrase, grynding the faces of the poore. He commended highly that speech of Justice Harvy, that this last yeares famin was made by man and not by God, solicited by the hard heartednesse of men, and commended this observation as being made by his Majestie. And thereupon undertook to cleare the wisdome of the Church, in ordeynning to pray to God that he would be pleased to turne this scarcity and dearth, which cruell men (but He never made) through his goodnesse and mercy into cheapnesse and plenty ; he said that God taketh away the hardnesse and cruelty of men's hearts, which was the cause of the famin or scarcity, and He onely, and therfore the Church hath very wisely ordayneid as aforesaid. He is glad to heare it declared to be an offence against the common law of this realme: and, therfore, seeing it had pleased God to load the earth soe richly, and also to send soe dry a tyme for the inning the same in the harvest, for, if that had wanted, all that abundance had been but an uncomfortable load, as we by our sinnes had deserved and was threatned ; and yet for all this plenty corne was at an extreme rate, and they boast among themselves now they can keepe their

corne as long as they list and noe feare of moulding, he thinks fit this man be made an example that others may feare to offend in the like kinde. And assenteth to his fine to be 100 marks, and thinks fitt, seeing he hath ground the faces of the poore, he should therfore helpe to seale them againe, and pay 10<sup>l</sup> to the poore; and the rest of the former sentence he assented unto.

THE EARLE OF DANBY consented to the sentence in all, adding that he should pay but 10<sup>l</sup> to the poore, and to stand likewise upon the pillory at the Pallace, because some of all countries might take notice therof.

THE EARLE OF DORSETT concurred in his sentence with the Earle of Danby, and commended my Lord Keeper and Mr Atturney for their care and paynes in bringing him to justice, and wished that inquiry should be made if the Justices of the peace had made default in not visiting the said Archer's barnes. But as for the Earle of Warwick, S<sup>r</sup> Thomas Richardson had well declared that Lords and Peeres of the Parliament were exempted from the services of the said orders, and yet that the Lord of Warwick out of his care had admonished him, etc.

LORD PRIVY SEALE gave his sentence in few words, that Archer was guilty by his owne confession of a very great offence, and well worthy the sentence aforesaid, and in full consented to it.

THE LORD KEEPER did affirme that it was indeed a good worke to bring this man forth to be heere sentenced, but that it was brought about by the meanes of Justice Virnon, who informed him of the said Archer as being the onely man presented in all his Circuit for offending in this kinde, and that to him this was to be attributed, he was of opinion, that the said Archer was guilty of inhanceing the price of corne by keeping in his corne as is confessed in this tyme of scarcity, which was not a scarcity made by God (for ther was enough to be had at deare prices and high rates): he affirmed the same to be an offence as well against the common law as against some statutes, and also he would not leane out against

his Majesties proclamation and orders, for his Lordshipp held these were an aggravation of his offence: And his Lordshipp declared further (and wished it might be taken notice of, as well as of what had allready been spoken), for that much had been sayd that day of singular use and benefitt for the common wealth, that these were noe new opinions. And to that purpose shewed that in the olde charge to the Quest of inquiry in the King's Bench, this inhanncing the prices, not onely of corne but of any other commodities, was inquirable and to be there punished; also cited a statute wherby those that agree to keepe up the price of any commodityes, agreeing to sell all at one price, and those that raise false newes to bring downe the price of any commodities from what they are justly worth are punishable; as those that raysed newes that there were great warrs beyond sea and there would be noe vent for cloath, and tould the same in the country at Coxsall, for that the price of woolls fell there, and they were punished for it. And his Lordshipp vouched a president of one for procuring the raysing the price of a certaine commodity, for which he was informed against in the King's Bench, and though his Counsell alleged that he had donne nothing, he had but spoken, and his offence was in words onely, yet he was adjudged an inhanncer for but advising the same. And vouched a statute or proclamation in the tyme of H. 8 for setting the prices on corne, and the like orders and proclamations in the tymes of E. 6, Queen Eliz. and King James, and agreed it to be well spoaken by the Earle of Dorset, that if any shall doe any thing tending to depopulation, over and besides his punishment, he shall be injoyed to populate as much, as the said Framingham was: and vouched a booke case, where one complaining against another for letting downe a sea wall soe that not onely his but diverse other men's grounds were surrounded, the judgement was given in the common pleas that the plaintiff should recover his damages, and the defendant should also make up the said wall at his costs and charges. And therupon his said Lordshipp consented to the highest

censure against the said Archer for his forestalling the market and keeping in his corne to the inhanceing of the price, to the great hurt of the common people, especially the poore labourer: and committed Archer to the Fleet from whome he came.

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In Camera Stellata, 19 Octobris. Michaelmas, 7<sup>o</sup> Caroli Regis.<sup>a</sup>

[FALKLAND V. MOUNTNORRIS AND OTHERS.]

S<sup>r</sup> ARTHUR SAVAGE.

S<sup>r</sup> Arthur Savage, knight, was brought to the barre in this Court by the Warden of the Fleete. The Lord Keeper asked S<sup>r</sup> Arthur whether he were ready, according to the sentence of this Court, to make recognition of his offence, and to aske forgiveness of the Lord Viscount Faukland, whome he had wronged. S<sup>r</sup> Arthur answered that he knew not what to acknowledge, and that he never read the sentence. The Lord Keeper therfore commanded parte of the decree to be read, wherein S<sup>r</sup> Arthur was condemned for contriving and practising to lay a scandall upon the Lord Faukland, late Lord Deputy of Ireland, that for hope of gaine he had combyned with the Lord Sarsfield to indict, convict, and execute one Philip Bushell, an innocent, for a supposed murther, to the great scandall of the said Lord Viscount Faukland and his Majesties Government by him in that kingdome, and therfore he was adjudged to make acknowledgement of his offence at this barre, and to ask the Lord of Faukland forgiveness for the same; which, being read, he acknowledged their Lordshipps had dealt nobly with him. Then my Lord Keeper said: S<sup>r</sup> Arthur, M<sup>r</sup> Atturney hath drawen your acknowledgment, will you have it, will you have it read to see if you like it? which was read, being to this effect: I, S<sup>r</sup> Arthur Savage, knight, doe confesse I have committed a great offence and injury, as well against his

<sup>a</sup> Continned from p. 40.

Majestie as against the Lord Viscount Falkland, late Governor of Ireland, in slandering him, the said Lord Faulkland, for causing one Philip Bushell, an innocent, to be put to death on purpose to gaine his estate, thereby seeking to draw his Majestie and the people into dislike of his government, and I am heartily sorie for it, and aske him forgivenesse for the same. What say you, S<sup>r</sup> Arthur, are you contented to acknowledge this? sayd the Lord Keeper. My Lords (said S<sup>r</sup> Arthur Savage), if I could acknowledge this, then neither your Lorkshippes nor any of this auditory will believe me hereafter in anything I shall say or doe. Neither did I think I had been sent for hither for this purpose, but I thought your Lordshipps had mediated with my Lord Faulkland to make a conclusion and finall end with me. Then said the Lord Keeper, after some silence, S<sup>r</sup> Arthur, This Court hath lately sentenced this cause in a very great presence, and it is not now to be disputed; yet, because you say you knew not of it, we will not presse you to anything now, though I did give order for the Warden of the Fleet to acquaint you with the cause of your comming hither to be, to make your acknowledgment according to the decree of this Court, but this Court is pleased to give you tyme to consider of it, and the sentence to be brought unto you. My Lord, said S<sup>r</sup> Arthur, I thank you and this honourable Court, yet let me not prejudicate my selfe, seeing that I goe on with the suit against the Judges, let me not judge myself before it come to hearing. S<sup>r</sup> Arthur (said my Lord Keeper), you must knowe that the Lord Viscount Faulkland is to be severed in this from the Judge, and there is nothing in this sentence to cleare him, as you may see by it; in the meanwhile you may have liberty till we send for in convenient tyme, and you are to returne to the place from whence you came.

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Coram { Thoma Dño Coventry, D[omi]no C[ustode] M[agni] S[igilli].  
 Henric[o] Com[ite] Manchester, D[omi]no C[ustode] p[rivati] S[igilli] Anglie.  
 Ed[wa]r[d]o Com[ite] Dorsett.  
 Thoma Richardson, Mil[ite] Capital[i] Justic[iario] de Banco.  
 Franc[isco] Hervy, Milit[e] uno alio Justic[iario] de Banco. } D[omi]ni  
 Regis  
 Consilio  
 ib[ide]m.

Eodem die Coram Concilio prædicto.

The cause betweene S<sup>r</sup> Edward Plumpton, knight, complaynant, and Henry Scroope, and many others, defendants, upon hearing this day, appeared to be thus, as followeth: S<sup>r</sup> John Finch, of Counsell with the Complainants, opened the Bill, That Henry Scroope, sonne of Christopher Scroope, Esqr., came as a suitor to the said Anne Plumpton alias Scroope, the daughter of S<sup>r</sup> Edward Plumpton, and professing himselfe to bee free from any former marriage or precontract with any other, did marrie and take to wife the said Anne, in or about February, in the 21st yeare of King James, the said Henry being then about the age of 18 years; that they did cohabit together as man and wife, and had two or three children betweene them, and soe dwelt together 4 yearess; yet to avoyd this marriage another marriage was pretended to be had and made between the said Henry Scroope and Anne Scroope, the daughter of Robert Scroope, Esquire, which (if any such were) was unlawfully and unduely procured by John Duckett and Anne his wife, and others some of the defendants to this bill, without the consent of parents or their knowledge, and that it was within the degrees of consanguinity, and before the said Henry was 14 yeres of age, for that he might refuse the same; which by his marriage with the said Anne the daughter of the complaynant he did soe refuse; and that the said S<sup>r</sup> Edward Plumpton had given or promised in porcion

with his said daughter 1000<sup>l</sup>i and an estate for her life in diverse messuages were promised to be made unto her by the said Henry and Christopher for her joynture, that the said Henry and Anne Plumpton alias Scroope lived in house with the said complaynant all the tyme they lived together and at the charge of the sayd complaynant, that the said Henry was next after his father and Francis, his uncle, next heire to the Lord Scroope late Earle of Sutherland,<sup>a</sup> deceased, that the said Henry and Cristofer, the father of the said Henry professing the said Henry to be free, the said marriage was had and made betweene the said Henry and the complaynant's daughter, and they had three children together, of which Anne Scroope, the daughter and sole heire of the said Henry, is yet living. That Cristofer Scroope and Margaret his wife had joyned with the parish clarke of Spenithorne to enter into the church book there, that Henry Scroope, sonne of Cristofer Scroope and Margarett his wife, was borne the 16th of October, 1605, whereas the said Henry was not born at Spenithorne but at another place. Of this bill the complaynant could make noe proofe of any thing against any of the defendants, but onely against Henry, that he, knowing himselfe to be married to the said Anne, the daughter of Scroope, did afterwards, professing himselfe to be free, marry and take to wife the said Anne the complaynant's daughter, and did cohabit with her by the space of 4 or 5 yeares; and that the said parish clarke by the threats of the said Christopher and Margaret, being their tenant, did enter those words aforesaid into the Church booke of Spenithorne abovesaid.

Serjeant Brampton of counsell with the defendants Robert Scroope, Henry Scroope, Edwards Milles, John Ducket and Anne Ducket his wife, Christopher Scroope and Margaret his wife, Henry Banks, Nicholas Clarke, and Anne Scroope daughter of the said Robert, opened their answere, thus: That Christopher Scroope committed the care for education of the said Henry to Robert

\* *Sic* for Sunderland.

Scroope, that Robert Scroope accordingly placed him and kept him at the university of Oxford, that afterwards the said Henry being growen up, and of the age of 17 yeares, towards 18, was married unto Anne, the daughter of Robert Scroope, *in facie Ecclesie*, by Doctor Spight, in St. Clement's, Eastcheape, London, upon the Saboth day, being the 6 day of December, in the twentieth yeare of King James, that this was a lawfull and good marriage, in 6 degrees; that afterwards the said Henry, becoming the servant of the late Earle of Sutherland,<sup>a</sup> came to the house of the said S<sup>r</sup> Edward Plumpton upon a Thursday and was married unto the complaynant's daughter the wensday next after, by a popish priest in a chamber of S<sup>r</sup> Edward Plumpton's house and at twelve of the clock at night: that this was out of hope of the Earle of Sutherland's<sup>a</sup> estate. That S<sup>r</sup> Edward Plumpton heard reporte of the said former marriage before the marriage with his daughter, that he sayd he would believe noe reportes and never inquired after it whether it were soe or noe, that a weeke after the marriage with his daughter the Earle of Sutherland<sup>a</sup> himselfe and the said Robert Scroope and Cristopher Scroope sent notice by letters unto the said S<sup>r</sup> Edward Plumpton that they heard credibly that Henry Scroope was married to the daughter of Robert Scroope of Oxfordshire, and very shortly after a certificat under the hand of Doctor Spight of the said former marriage was sent and delivered unto the said S<sup>r</sup> Edward Plumpton, who then affirmed if it were soe yet it was unlawfull for that it was within the degrees of consanguinity and soe voyd, the said Henry and the daughter of Robert Scroope being (as he said) third and third; this second marriage was one yeare and two months after the first, and in the 21st yeare of King James. That afterwards Henry Scroope went away from the said S<sup>r</sup> Edward Plumpton's house and daughter and carried away his clothes purposing never to returne againe, and then the Lady Plumpton and the said Anne her daughter followed after him and with their per-

<sup>a</sup> Sunderland.

swasions he went back againe, and after this was the cohabitation continued and the children borne as before mentioned: the said Christopher and Margaret did cause, out of a booke of the age of all their children which they kept, the age of Henry to be written in the Church booke of Spenithorne, and that it was the truth although he were not there borne. He doth not undertake to excuse Henry for what he hath wickedly and lewdly donne, but for this he humbly prayeth the benefit of his majesties most gracious generall and free pardon, which was in the 22nd yeare of the King as in his answer he hath prayed.

All this was proved by diverse witnesses, and the second marriage, in manner aforesaid, was proved by Katherine Plumpton, one of the daughters of S<sup>r</sup> Edward Plumpton, and by another who was present, who thought the minister that married them was inclinable to the Catholic religion, but knew not whether he were a priest or noe, for that they never saw his orders; but they sayd that neither S<sup>r</sup> Edward nor his Lady were present at the said marriage, and that it was between twelve and one of the clocke in the nighttyme; that the same words were used in the marriage as are ordinarily used in marriages in the Protestant Churchcs, and a ring was used in the marriage, and Henry Scroope sayd these words: I, Henry, take thee, Anne, to my wedded wife, etc.: and afterwards the priest said some short prayers in Latine, which they understood not.

S<sup>r</sup> John Finch and Mr. Hudson of counsell with the Compl[ainant] replyed, That for the inserting his birth into the Church booke by Christofer and his wife and the clarke, it was an offence deserving the censure of this Court; and M<sup>r</sup> Hudson did liken it to the mending of an Indenture after it is sealed, or the inserting anything into a Record, which is forgery. And as unto Henryes pleading the general pardon, M<sup>r</sup> Hudson alledged that Henry did demurre unto the bill that he was not bound to answere therunto, for that, as he conceived, he was pardoned, and the offences alleadged against him were pardoned by the king's late generall pardon; and

this was referred to Mr Justice Hutton, to report and shewe his opinion to the Court whether the offences were within the pardon aforesaid; and Mr Justice Hutton accordingly reported that, as he conceived, and as the matters stood charged in the bill, they were not pardoned by the King's generall pardon ; and Mr Hudson alledged that, though the second marriage it selfe were pardoned, yet the continuance of their cohabitation since was not pardoned.

The Court was of opinion that none of the defendants were to be sentenced, and the Earle of Dorsett declared that he thought, in his opinion, the said putting in of his age into the Church booke was no offence, and affirmed that if any man that hath kept the age of his children by making privat notes therof, and knowes the same is not entred in any Church booke, he may be pleased to enter it in any Church booke whatsoever, hee may doe it, though it be long after their birth ; and that if this were an offence he himselfe was guilty of it within these few weeks. My Lord Keeper affirmed that if a man soe enter his children's names into the Church booke it is noe offence, and it is not like the mending of a sealed Indenture or a Record, but found fault with the threatnings which Christofer Scroope and his wife used to the parish clarke. As for the offences alledged in the bill against Henry Scroop, his Lordshipp was of opinion they were (as they appeared nowe upon hearing the cause) pardoned, although to Mr Justice Hutton (as they stood in the bill) they seemed not to be pardoned. His Lordshipp asked Mr Hudson whether Henry were not pardoned, and it could not be denied but it was; then my Lord affirmed that without question his second marriage was a felony that was pardoned, not being excepted, and the Court would not rayse nycities out of the pardon and frame a third offence between the felony and adultery, with their continuation and cohabiting together, especially not to punish Henry Scroope for it at the Compl[ainant]t's suit, because the cohabitation was continued by Compl[ainant]t's assent and procurement, or at least by some of their side. But my Lord Keeper asked the Compl[ainant]t's Counsell whether S<sup>r</sup> Edward Plumpton

were pardoned? for here was an harbouring of a popish priest, and that proved by owne daughter; and for that this was the Supreme Court of Justice in the Kingdome, they would not have it reported that such things brought forth here and proved by depositions plainly were not regarded; that an harbouring of a popish seminary priest was here spoken of and nothing sayd against it: we will not have it blowen abroad that we soe farre favor priests or popery: Therefore, though I am very sory for S<sup>r</sup> Edward Plumpton and his daughter, yet, for this reason, let him be in the custody of the Warden of the Fleet and examined, whether he knew the Seminary priest to be in his house: and let him be examined by my Lord Richardson.

[In Camera Stellata, 21 Octobris, 1631.]

|       |   |                                     |
|-------|---|-------------------------------------|
| Coram | Thomas, D[omi]no Coventry, D[omi]no C[ustode] M[agni] S[igilli]<br>Anglie.<br>Henrico, Com[ite] Manchester, D[omi]no Custode P[rivati]<br>S[igilli].<br>Ed[w]a[r[d]]o, Comite Dorset.<br>Henry Carey, Viscount Faulkland.<br>Will[elm]o, Ep[iscop]o London[iensi].<br>Thoma Richardson, Milite, D[omin]o Capit[ali] Justic[iario] de<br>B[anco].<br>Franc[isco] Hervy, Milite uno altro Justic[iario] de Banco. | D[omi]ni<br>Regis Co<br>lio ib[ide] |
|-------|---|-------------------------------------|

[FALKLAND V. MOUNTNORRIS AND OTHERS.]<sup>a</sup>

Philip Bushell. Philip Bushell was brought to the barre in this Court to make his submission to the Lord Viscount Faulkland, by the Warden of the Fleet. The Lord Keeper asked him whether he was ready to

<sup>a</sup> Continued from p. 50.

make his submission ? Philip Bushell answered, Yes; but prayed their Lordshipps that his submission to my Lord Faulkland might not prejudice him in his cause which he had depending against the Judge, which he intended to goe on withall. The Lord Keeper answered and graunted that it should not, and that it was soe drawen. Then it was read as followeth :—

I doe confesse I have slandered the Lord Viscount Faulkland, late Governor of Ireland, falsely laying to his charge that he had his hand in the executing and putting to death of Philip Bushell an innocent, out of hope to gaine his estate, to the great slander of his person and his then Government under his Majesty, and I am heartily sorry for the same, and doe aske him forgivenesse.

Then the Lord Faulkland sayd: I am ready and willing to forgive him, and doe, knowing that what he did he was sett on to doe by others.

[Mich. 7<sup>o</sup> Car[oli] Regis, 26 Oct.]

[PLUMPTON V. SCROOPE AND OTHERS.]<sup>a</sup>

The examination of Sir Edward Plumpton, knight, taken before Sr Edward Plumpton. my Lord Richardson 21 Oct. was this day read. The said Sr Edward Plumpton saith, that he knoweth one Michaell Freeman, otherwise Hill, but doeth not knowe him to be a popish priest, and that he did not see him in his house when the said supposed marriage was solemnized, and denyeth that he did ever give intertainment to him: and the said Sir Edward Plumpton shewed forth a pardon to himselfe bearing date *Anno primo Caroli Regis.*

[FALKLAND V. MOUNTNORRIS AND OTHERS.]

Sr Arthur Savage was this day brought to the barre the second Sr Arthur Savage. tyme to make his recognition of wrong donne to my Lord Falk-

<sup>a</sup> Continued from p. 56.

land: he first besought the Lords that he might have leave now in his age to tender his soule above his body, and that he might not make any confession against his knowledge and conscience; he acknowledged their Lordshipps did right as they were informed, but said that the witnesses against him were poore people suborned. My Lord Keeper tould him it was noe tyme to dispute with the sentence, but to obey, and soe appointed the confession in writing and sett words to be read; and then asked S<sup>r</sup> Arthur whether he would acknowledge soe much. He desired to be excused, and affirmed it was against his conscience; the effect of the acknowledgement read was that S<sup>r</sup> Arthur Savage should humbly acknowledge that he had committed a great offence against the King's Majestie and my Lord Viscount Falkland, in slandering and scandalizing the said Lord Falkland when he was Lord Deputy of Ireland, by laying unto his charge that he had joyned with the Lord Sarsfield, Judge of the Assizes in the county of Kildare in Ireland, falsely for hope of gaine, to indict, convict, and execute one Philip Bushell, gent. and to make a prey of his estate, to the greate scandall of the government of the said Lord Falkland as Governor there, and to the wounding of his honor, thereby seeking to drawe him into displeasure of the King and his nobles and people: S<sup>r</sup> Arthur declyned this acknowledgement. The Earle of Dorset moved it be drawnen up shorter and in fewer words. The Earle of Arundell moved that Sir Arthur might have further tyme granted him to consider of the sentence and his acknowledgement, which was ordered; and S<sup>r</sup> Arthur was remitted to the Fleet.

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[In the Court of Starre Chamber, Mich, 7<sup>o</sup> Caroli Regis 9<sup>o</sup>, No. 1631.

|        |   |                               |
|--------|---|-------------------------------|
| Before | The Lord Keeper of the Greate Seale.                                  | The King's<br>Counsell there. |
|        | Lord Privy Seale.   |                               |
|        | Earle of Arundell,  |                               |
|        | Earle of Bridgwater.  |                               |
|        | Lord Wentworth, President of the Counsell in the North.               |                               |
|        | Lord Viscount Falkland.   |                               |
|        | Bishop of London.   |                               |
|        | Bishop of Winchester.   |                               |
|        | Sir Thomas Jarmin.  |                               |
|        | Sir John Cooke.   |                               |
|        | Sir Thomas Richardson, Lord Chief Justice of the K[ing's]<br>B[ench]. |                               |
|        | Sir Robert Heath, Knight, Lord Chief Justice of the Bench.            |                               |

The King's Atturney Generall - - - Plaintiff ;  
 Charley Moody, Richard Strode, Henry  
 Stock and his wife, Richard Kingman and  
 Jane his wife, Katherine Smith widdowe,  
 William Leggat and his wife, John Wells  
 and his wife, Thomas Browne and his  
 wife, Robert Browne and his wife, Thomas  
 Gundy and Katherine his wife, and others Defendants.

The Bill set forth that his Majestie being seized of divers lands  
 and wast grounds called the Fennes, in the counties of Lincoln  
 and Nottingham, etc., these lands were surrounded with water and  
 barren, his Majestie by advice of his counsell tooke order with Sr  
 Cornelius Varmiden for the drayning of the Fennes if it might be,  
 and articles of agreement were made betweene his Majestie and the

said S<sup>r</sup> Cornelius Varmiden, and authority given by virtue of the King's Letters Patent, under the Great Seale of England, for the doeing thereof, and a speciall provision that those that had any title of common should repaire to the Commissioners appointed for that purpose by Commission, and upon their shewing their title or interest they should have full recompense. The King's letters were sent to warne them to come to the Commission and demand their recompense 23 February, 3 *Caroli*.<sup>a</sup> They were all agreed the commoners should have one parte of <sup>b</sup> The King provided workmen, the worke was brought to good forwardnesse, and divers ditches and banks made, and S<sup>r</sup> Cornelius Varmiden was at greate charge thereabouts.

That the defendants with others came together in companies to throwe downe and demolish what was donne, although divers proclamations were made, and noe right they could pretend, and 4 *Caroli* they made their assembyles by hundreds and 500<sup>ds</sup>, they demolish the worke, they beate the workmen, and burne the spades, shovells, wheelbarowes, plancks, and beate the workmen, sett up a paire of gallowes for to terrify the workmen, threw some of them into the water and held them under a while. They had a signall to assemble themselves by sometymes by a bell, sometymes by an horne, they threatened to kill the workmen if they came thither to worke againe. That they had 14 several tymes in riotous and rebellious manner assembled themselves and donne these riots, etc., to the slander of his Majestie's Government, to the hindrance of the worke, and to the dammage of S<sup>r</sup> Cornelius Varmiden 5000<sup>ii</sup>, and that some of them put those that served the King's processe out of this Court upon them into the stocks.

## Answers

The defendants answeres, some were read and the rest opened by Counsell: they all claymed their common of pasture with all manner of cattell and common of turbary, at all tymes of the yeare; that they never agreed with Sr Cornelius Varmiden; that the

<sup>a</sup> i.e., Feb. 23, 1628.

<sup>b</sup> Blank in MS.

country receiveth noe profit by the worke, the grounds are made rather worse. They confesse some of them that they did with others enter into their grounds to goe to their cattle there depasturing, that they cutt downe the bancks and ditches and levelled them for stopping their way. This they did to clayme their right, which they hope this Court will mainteyne, seeing they have had possession and seisin and they whose estates they have, tyme out of minde; and as for the unlawfull assemblyes, riottes, routes, plotts, confederacyes, woundings, beatings, etc., Not Guilty.

M<sup>r</sup> NOYE, the King's Attorney Generall, shewed that it was M<sup>r</sup> Attorney. the King's parte to defend his realme from the inundations both of the sea and of fresh waters—they are a kinde of enimies: that those grounds in Axom<sup>a</sup> were by reason of the overflowing of the water become barren his Majestie tooke care for the driving out of this enimy the waters; it will appeare how these men have daneaned themselves by proofes, and what faire offers they have refused, and that they had good cause to suffer things to be in peace, and not to take upon them to be their owne judges, considering all his Majestie's faire proceedings heerein. These were his Majestie's owne demesne Lands: he did what every Lord would doe, he sought to improve his lands: 24 Maij, 2 Caroli, there were articles of agreement made, whereby it was agreed that S<sup>r</sup> Cornelius Varmiden should undertake the drayning of these commons; 23 Feb., after there went a Commission to diverse Lords and gentlemen to see whether this worke were feasable, and warning given to the people and inhabitants to claime their right of Common; and they had power to make admeasurement of the Commons and to parte them and give the Commoners and their Landlords sufficient recompense. They never claymed any interest at the Commission. Upon admeasurement of 18,000 acres, 12 or 13,000 were under water. His Majestie thought that 5 or 6000 acres would do them more good to be layd out to them in severall: it was his owne land, he might require some common; he assured them it should be for theer benefit. But they are better in love with catching of ducks

<sup>a</sup> Axholme.

then keeping of people, they will beleive nothing of this, they throwe downe the workes and burne the tooles; they assume with all power to set up franchises and gallowes, they take upon them to punish these misfesors. These letters that noe man should be prejudiced but profitted by it were 27 August, 4 *Caroli*, and 29 Sept. following others. It appeared that one acre since this worke was better then three before, soe that 6,000 were better than 18,000, yet then these ryotts were committed.<sup>a</sup> Though they had cause to be quiet, they proceede to their wills, they used the workmen barbarously, and helde one of them under water like their ducklings, and those that serve the King's processe they ought to goe in peace, but as hedge-breakers or breakers of the peace they put them in the stockes.

Proofes on  
the King's  
Attorney's  
parte.

It was proved on the King's Attorney's parte, that divers were sett on worke by S<sup>r</sup> Cornelius Varmiden to make trenches for the drayning, that 300 persons came to the workmen, and Harrison, Gibson, and Moody threatned to kill the workmen: and Browne, Stockwell, and William Scott told them if they would leave their work they would appease the multitude, or els they might goe on at their perill: that they called the labourers rogues, dogges, and cryed out, Breake theer legges, and 17 of the laborers were hurt; 8 wheelebarrowes, 180 deale boards, planks, many shovells, spades, pickaxes, and other materialls and instruments were burnt. That one Mr. Hawthorne was throwen into the river, and kept in with poles a great while; that they cryed out, Drowne him! Kill him! Breake his armes or legges! That James Moody, Harrison, Henry Scott, and Edward Gibson did cry out, Throwe him into the river! Breake his armes and legges! Others were beaten with dry blowes. Hawthorne's face was hoodwinked with a cloake or coate, and soe cast into the river, and Richard Scott and others layd hands on him, and strucke and beate him; but bidd them not to ducke him over head least he should be drowned, but rather to breake his armes or his legges, and soe lett him goe; and some of the riotors poured water in at the necks of some of the workmen; and one

<sup>a</sup> 1628.

runne at the deponent with a drawen knife and cutt his clothes, and some cryed out, Cut his throate! Breake his leggs! and made them sweare never to come there againe. They sett up a gallowes and threaten to hang such of S<sup>r</sup> Cornelius Varmiden's men as would come thither againe. The women assembled themselves to the number of 200 in 1629 divers dayes and tymes, and threwe downe the bancks and workes, and burned the instruments and tooles. That one Kitchen, and another with him, came to Haxam to serve the proces of the Court upon some of the defendants. They sett upon them with staves, and desired Richard Stockwell, the deputy Constable, to put Kitchin in the stocks, which was donne (Stockwell confesseth he put him in the stocks for some misdemeanors, but did not knowe they came with processe). And witnesses sworne say that S<sup>r</sup> Cornelius hath been damnifyed hereby more then 2000*l*.

The defence made by Counsell for the defendants was first of all The defence for one M<sup>r</sup> Toxie, one of the defendants, against whome M<sup>r</sup> Re-<sup>by proofes.</sup> corder observed out of former proofes nothing was layd to his charge or proved but that he was present once or twice at the assemblyes, and that he did say he would endevor to appease the multitude but then there was noe outrage: but upon the 13 day of August when the wheelbarowes and deale boards were burnt the said Toxie endeavored to prove that he was not present, and by three or foure witnesses proved he was at another place in such a man's house that day, but it was before, on the King's Atturney's parte, proved by 4 witnesses, that the said Toxie was then also present; and it was sayd by my Lord Keeper that if *re vera* this 13<sup>th</sup> day were the day of the riott then the defence might be to some purpose, but if not, as it did not appeare by any particular proffe, then the day is not to be regarded if the thing were donne: M<sup>r</sup> Toxie likewise proved that at Whitsuntide in the church upon Whitmunday, 1628, he warned his neighbours to take heed they should make noe riotts as they had begunne to doe, and tolde them unlesse

they would forbear to use violence, their Lawyers would noe longer be of counsell with them.

For the constable that put Kitchin in the stocks it was but *singularis testis*, that he knew they came to serve the processe, as it was urged by M<sup>r</sup> Bierley; and that it did not appeare by proofe that Henry Scott's wife was present at the ryotts: And Mr Bierley for other of the defendants showed that the King's Majestie was pleased to declare that S<sup>r</sup> Cornelius Varmiden should doe nothing in the worke till they consented, and that they never consented, etc. My Lord Keeper answered that this was nothing to their ryotts; they might have complayned in the King's Exchequer. That Katherine Smith had since married with a minister, a grave divine, who was not called to answere; she and her husband should have been called in by new processe. My Lord Keeper answered that the case did not require a new calling to answere, for it was the defendant's owne act: if the plaintiff after answere before judgement marry an husband they must call the defendant by new processe and a new bill, but if the defendant marry there needeth not new processe.

Also it was sayd by my Lord Privy Seale and urged by M<sup>r</sup> Attorney that (as to Toxies alledging that he was not present at the riott 13 Aug.) he might be there at the carre grounds where the riott was donne, and be the same day also at the other place at Snodley's house, which is but 8 myles distant, and soe both proofes might be true for 4 witnesses sweare particularly that he was there at the riott: and soe the Court proceeded to sentence.

It was unanimously declared by the whole Court that his Majestie proceeded herein legally and rightfully for the benefit of his crowne and people, for the drayning of these fennes; and many of the defendants were found guilty of the severall riotts charged in the bill; viz. Toxie, James Moody, Henry Scott, and Hezekias Browne, who were fynded 1000<sup>l</sup> a peece. The widdowe Smith, who married the minister after the riotts, 500<sup>l</sup>, and the severall women who

Sentence of  
the Court.

were proved to be at the said riotts 500 marks a peece, and they were adjudged to pay for dammages unto S<sup>r</sup> Cornelius Varmiden the relator 2,000*l*.

After this sentence M<sup>r</sup> Attorney moved the Court to take it into their consideration, whether it were not fitt to fyne the adjoyning townes where these riotts and rebellious assemblies were made: he shewed that heere were 14 severall riotts, wherein the poorer sorte of people were sett on worke, but the rich, they escape, and these were committed 3 yeares agonne, and never any are brought to be presented or indicted at any Assizes or Sessions! He taketh it that by the lawe these townes ought to be fyned. Westm[inster] 2 chap. 4, that the townes adjoyning shall be distrayned in such a case, etc.: which was but a declaration of the Common lawe. My Lord Keeper directed that the presidents should be considered and if it agreed therewith they should be fyned, but objected that these townes and villages were not called heere to answeare; M<sup>r</sup> Attorney answered, that upon a rescusse\* returned into a Court of Record if it appeare to be donne, the village or towne where it was donne is amerced though not called, etc. Whereupon my Lord Keeper said it was a good motion and was not fitt to dye: yet nothing more was donne for this tyme.

Mr Attorney's Motion after the Sentence.

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In the Starre Chamber, 11 No. 7 Car[oli] R[egi]s.

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|------------|--|----------------------------------|
| Before the | Lord Keeper of the Greate Seale.<br>Lord Privy Seal.<br>Earle of Pembroke and Moungomery.<br>Earle of Dorsett.<br>Bishop of Winchester.<br>Lord Cheife Justice Richardson.<br>Lord Cheife Justice Heath. | The<br>King's Counsell<br>there. |
|------------|--|----------------------------------|

\* "RESCOUS, *Rescussus*, comes from the French *Rescousse*, i. *Liberatio*, is a resistance against lawful authority," &c. — *Cowel's Interpreter*, s. v.

Betweene S<sup>r</sup> Edward Leach, Knight - Pl[ain]t[iff], and  
 Sir Francis Fuliam, Baronett, Godfrey  
 Somershill, Francis Bridges, Thomas  
 Stirrop the elder, and Thomas  
 S[t]irrop his Sonne, and others - Defendants.

## The Bill.

The last charge of the Bill was that the defendants S<sup>r</sup> Francis Fulliam, Stirrop, and Stirrop, had plotted and combined together to forge 4 parchment leaves of an olde handwriting, and to thrust the same into a leger booke of the Deane and Chapter of Lichfield kept in their Registry by the said Thomas Stirrop the elder, Registrar there; and that they should further among themselves practise and agree to suborne the said Stirrop the Sonne to commit perjury in producing the said foure parchment leaves in evidence at Derby Assizes and giving them the reputation of auncient records kept by the Register of the Deane and Chapter, under whom the plaintiff S<sup>r</sup> Edward Leech holdeth the tythes of the parsonage impropriate of Chesterfield, which tythes the Vicar of Chesterfield claymed to hold by an auncient composition, paying 20*l* rent to the Deane and Chapter aforesaid yearely. The second charge was against S<sup>r</sup> Francis Fulliam for champerty and maintenance, to whom the said Vicar had made a lease of the tithes of the said Vicaridge for 3 yeares. S<sup>r</sup> Francis made a lease to try the title to the said Godfrey Somershill, and this came to be tryed at Derby Assizes, where the said parchment leaves were produced in evidence; then the plaintiff withdrew a juror, but at the next Assizes the plot was discovered; and then upon full evidence the plaintiff had a verdict, and showed that possession was against the said Vicar for 100 yeares last past. The third charge was for a riott which S<sup>r</sup> Francis Fulliam's servants committed at the harvest after the said verdict in taking the said tythes: That the riotors called themselves by nicke names, Jack and Tom, Northumberland and Westmorland, they spoyle more then they gather, they cry a Fulliam, a Fulliam, they carry what they gathered to S<sup>r</sup> Francis Fulliam's barne.

The defendants by their counsell opened their answeres : They The Answeres. deny the practise, forgery, and perjury. Thomas Stirrop the father confessed he sent the said leaves and the said Ledger booke by his Sonne to be given in evidence at the Assizes; and Thomas Stirrop the sonne confessed he did bring the said booke and parchment leaves into the Court, and did depose that he had them out from among the records kept by his father the Registrar of the Deane and Chapter of Lichfield, and confessed in their examinations that the said 4 leaves did conteyne mention and importe a survey of the rents of the Denery, and that therein was mentioned that the Vicar of Chesterfield should pay to the Deane of Lichfield 20*l* rent yearly for the said tythes, and that the said parsonage was not improprie: and that those leaves were 5 yeares agonne delivered unto the said Stirrop the father by Deane Barkly by him to be kept amongst the other records, and to be given in evidence by the said Vicar or any other, and thinketh they are the leaves of some book lent out but not brought home againe, and soe not guilty of this charge. M<sup>r</sup> Waddington the Vicar confessed he made a lease to S<sup>r</sup> Francis Fulliam, the rent not to be payd till the tythes were recovered, and they went to Counsell for making of it. S<sup>r</sup> Francis Fulliam did confesse he tooke the lease, but paid noe rent, and that he did beare the charges in a cause concerning one Somershull, it was to try the title, and fitt he should have a lease of the tythe of his owne lands: and pleaded Not guilty to this second charge. S<sup>r</sup> Francis Fulliam and all the rest plead Not guilty to the third charge of the riott, and S<sup>r</sup> Francis saith he was then at London when it was supposed to be committed.

Proofes on the plaintiff's parte werre, that Thomas Stirrop the P[ain]tiff's father did send those 4 leaves of parchment to give them in evidence for M<sup>r</sup> Waddington the Vicar against the Deane's title ; which also the said Thomas Stirrop upon his examination confessed : and it was proved that about 4 or 5 yeares since the said leaves were in a private man's custody, and then after brought into

the Registry, and after at the Assizes at Derby given in evidence by Stirrop the sonne, as Records remaineinge with Thomas Stirrop his father, Register of the Deane and Chapter of Lichfield ; and they had the reputation of auncient records. For the second charge the lease was confessed, and noc rent payd, and S<sup>r</sup> Francis his bearing the charges of a suit thereupon. For the riott, it was proved that one by the name of Blew John, others by the names of Northumberland and Westmerland and Lester, one Corbury, one Eaton, George Stevens, and Godfrey Elliott, all weaponed with pitchforkes, forceibly tooke away from the plaintiff's servants the tithe corne of the vicaridge and parsonage of Chesterfield; and M<sup>r</sup> Mathew Waddington said, Now, boyes, heere is worke for you ; and Robert Micklethwayt and others used words to this purpose, What if one should ring thy nose, meaning one Jackson, servant to the Complainant, and his nose was bloudy: and Godfrey Somershill strucke his spurre into this deponent's legge, then being one of the complainant's servants there. Another with a pitchforke runne this deponent, a servant of the plaintiff's then there, into the foote: and they cried, A Fulliam, a Fulliam, and that it was to his use, for the corne was carried to his barne. Two Justices came to view the riott, and Waddington cried out, Away, rogues, the Justices be cominge: and at the Sessions, when some of the riotters were indicted, M<sup>r</sup> Waddington stood openly in their defence and entered their traverses. One Francis Bridge, being Constable of Walson, with others, was present, this being within his constabulary, and cryed, A Fulliam, a Fulliam: and Sir Francis Fulliam payd the riotters for their service.

The Defence  
by Counsell.

The defence by Counsell was first for S<sup>r</sup> Francis Fulliam that, for the maintenance, there was no other in the bill but the making of the Lease. It is true there was a lease, but because it was convenient for him to have a lease of his own tythes. For the riott, S<sup>r</sup> Francis did not give command for, nor approbation unto the said riott; it is true the corne was brought to his barne, and that

might be in a lawfull manner, but he was at London when it was donne. S<sup>r</sup> Francis confesseth the plaintiff was in possession, but it was upon his owne land.

2<sup>ly</sup> For Thomas Stirrop, he confesseth that he had those 4 leaves but 5 yeares sithence: but Stirrop the younger confessed he witnessed at the Assizes that he had them out of his father's study where the Registry is kept: and it was shewed for them that there is in the same Registry a booke called *Liber niger* wherein the same things are recorded which appeared in the said leaves. For the riott there was almost noe defence for those that were actors and abettors in it.

It was urged by Mr. Atturney Generall and by S<sup>r</sup> John Finch Pl[ain]tiff's Counsell. for the complainant that these leaves were of matters in 2 E. 3, and that it was counterfeit by some young counterfeiter, because the characters agree not with those of that tyme: and they put a case. If a writing be brought into the Treasury and the Clarke sweareth he hath it among the records there: he hath supposed that it is a record, and if it be not truth is both forgery and perjury.

It was answered for the defendants and soe agreed by the Court, Def[endan]ts' Counsell. that heere it is otherwise, Thomas Stirrop the sonne did sweare his knowledge, that he had it out of his father's study. Thomas Stirrop the father sent it indeed, but confesseth that he had it but 5 yeares sithence, and that Lessons found it.

By the sentence of the Court, S<sup>r</sup> Francis Fulliam and the rest The Sentence of the Court. were found not guilty of the indirect practises of and concerning the said foure parchment leaves; but S<sup>r</sup> Francis was found guilty of the maintenance and champerty charged in the bill: and it was declared by S<sup>r</sup> THOMAS RICHARDSON that it was a buying of a title flatt against the Statute of 22 H. 8, although it were a lease but for 3 yeares. It is true, for to try a title to a common person is now Champerty, but to a great Baronett this is maintenance and champerty; this offence is most odious to the lawe, and therfore by 1 Rich. 2, such an offender is to be imprisoned and ransomed. S<sup>r</sup>

Fr: Fulliam was likewise found to be a procurer of the riott, and the riott committed in a foule manner, and their nicke names Northumberland, etc., not to be indured. S<sup>r</sup> Francis Fulliam was therfore fyned 1000*l*. The Vicar, M<sup>r</sup> Waddington, out of comiseration was fyned but 50*l*. Somershill and the Constable were fyned 200 markes a peece, and the rest of the riotters 100*l* a peece. Noe dammages. It was likewise moved that the 4 parchment leaves might be damned and not used any more in evidence, but the vote of the Court was against this, and they were not damned, etc.

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In the Starre Chamber, 16 No[vembris] Mich[aelis] 7 Caroli R[egi]s.

Betweene John Dalton, Clarke, Vicar of Sharp,<sup>a</sup> in Westmorland, Complt. and Heydon and others defendants.

The Bill.

The Bill. The bill was for a libellous scandall thrown upon the plaintiff by a pedlar and his wife and Haydon the defendant, for adultery supposed to be committed by the plaintiff with the pedlar's wife, and with one Elizabeth Beck, and that she was with childe by him. That they complayned to a justice of peace who reproved their malice: then they moved the Churchwardens to present it for that it was not meet that he that was guilty of soe foule a crime should be permitted to administer the Sacrament, and for divers other speeches tending to the said scandall.

The Defendants.

The defendants had noe Counsell, but an affidavit was read testifying that a *subpoena ad audiendum indicium* was served, etc.; and then the answeres of the severall defendants were read. Lancelot, one of the defendants, pleaded not guilty. Robert Jackson the

<sup>a</sup> i.e. Shap.

pedlar and Dowse his wife, they say there was an evill fame of the said Mr. Dalton, but how it was raised he doeth not knowe, and confesseth it was dismissed in the Ecclesiasticall Court at Carlisle: that the pl[ain]tiff would have pulled downe his house, and called company and stirred up others to doe it. He confesseth he said that there was an evill favored reporte of our parson, and this not to slander him, but out of care in religion and conscience to have the same cleared: and to that purpose he did tell him of it when he would have administred the Sacrament, that this defendant is a pedler and not worth 40<sup>s</sup> in personall estate, and that he, upon the whole matter, hath greater cause to exhibit a bill against him: and soe he and the rest of the defendants plead *Not guilty*.

The pl[ain]t[iff's] Counsell shewed the scandall against a minister being noe common person hath been punished in this Court. There was a certificat of the good conversation of the plaintiff by the Clergy, dated 31 Aprilis, 1631, which the Bishop of Winchester attested, and said he had received letters of commendation of him from divers worthy preachers of that Country.

The scandall was proved by the Pl[ain]t[iff]'s witnesses, and Proofer on the part of the plaintiff, that Haydon said our Vicar liveth in adultery, etc., and told a tale of a pedler's wife being gotten with childe by a priest; and they asked him whom they meant, "Who," saith he, "how many pedlers have we in this parish that have wives, and how many priests have we in this parish?" and that Jackson said, if the Churchwardens would not present the same he would present them both.

THE LORD KEEPER said that this cause perteyned to the Ecclesiastical Jurisdiction. M<sup>r</sup> Hudson for the pl[ain]t[iff] alledged a president, where a woman that falsely laid a childe to the charge of a minister was heere sent to Bridewell. And my LORD RICHARDSON said that these words were libellous, for a libell may be in word as well as in writing.

The sentence of the Court was, that the pedler and his wife should be committed to the house of correction and there kept 3 of the Court.

moneths, and to have the handsell of the house and to pay 40<sup>l</sup> to the King for a Fine: and Haydon to pay 100 marks fyne and 50<sup>l</sup> dammages to the party: the sentence for clearing him to be read at the Assizes and in his parish, and the clergy at Carlisle to be called together, and there these three defendants to make acknowledgement of their fault and wrong donne unto him the said John Dalton.

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[ALLEN V. JEMMAT AND OTHERS.]

Mr. Allen,  
Vicar of  
Sudbury, his  
Motion.

A motion was made by one Allen, a minister of Sudbury, in Suffolke, that whereas he had put in a bill in this Court against one Samuel Jemmat, Clarke, and others for divers riotts and misdemeanors committ by the defendants in the church, of which they indevoured to dispossesse the pl[ain]tiff because he would not suffer them to receive the Sacrament sitting, and for refusing to kneele at the Sacrament, and for throwing the holy Sacrament most contemptuously and irreligiously under their feet. The pl[ain]tiff desired, being admitted to prosecute this cause *in forma pauperis*, that in regard he is poore and hath but 11<sup>l</sup> a yeare, that the suit might be undertaken to be presented by the King's Attorney.

Bishop of  
London.

Mr. Prinne  
for the  
Defend[an]ts.

THE BISHOP OF LONDON commended this cause to the Court as concerning the Ecclesiastical jurisdiction as much as ever any did.

M<sup>r</sup> Prinne for the defend[an]ts shewed that this was complayned of in the High Commission Court, and there dismissed, and that for the same things that are heere charged; that M<sup>r</sup> Jemmat was lawfully presented, etc. and that therfore the Court would dismisse the cause or dispauer the pl[ain]t[iff] for that by his confession he hath 11<sup>l</sup> *per annum*.

Bishop of  
Winchester.

THE BISHOP OF WINCHESTER shewed the Court that the Archb[isho]p of Yorke brought this into the High Commission Court, that upon the defend[an]ts' submissions and promises of amendment and quietnesses they were there dismissed; but that since they were more refractory, etc.

My LORD KEEPER pronounced this order, that the plaintiff Lord Keeper should continue *pauper*, and to be considered, if it can be proved by certificate that any of these things being soe foule as they seeme to be by the charge of the bill, his Lordshipp thought it a fitt thing for M<sup>r</sup> Attorney to take care of and to present it.

M<sup>r</sup> PRINNE desired my Lord Keeper to give him leave to open Prinne. the truth of the cause to his Lordshipp shortly. He shewed that Allen, being a Vicar in Sudbury and beneficed and unqualifyed, accepted of another living; and his Lordshipp for that cause did graunt the first living to another one Samuell Jemmat; that he was admitted and instituted and inducted at 5 of the clocke in the morneing when noe body was there in the Church; and this he chargeth as a riott; and that in the afternoone of the same day there was a buriall to be solempnized, and there comming the said Jemmat and 30 persons more to bury the dead corpse when he had locked up the doores, this was the 2nd riott; and for the other things charged they were exhibited by Articles into the High Commission Court and there dismissed.

The BISHOP OF LONDON reproved Mr Prinne for saying that the Articles in the Commission Court were at the suit of the party, he averred that to his knowledge they were at the preferring of the late Bishop of Yorke;<sup>a</sup> soe the order aforesaid stood.

#### A. B. v. C. AND OTHERS.

This day also came to be heard a cause about forgeing of a will A cause about forgeing of a Will. to disinheret an heire in London. The case being that A. B. the Will. pl[ain]tiff sheweth that his ancestor being seised of certaine Lands in London, the defend[an]t C and 3 other defend[an]ts, supposed witnesses to the said will, plotted to disinherite the pl[ain]tiff, and to that purpose by unlawfull practise among themselves framed a will, or writing in forme of a will, and thereto annexed a seale and

<sup>a</sup> Samuel Harsnet.

sett to<sup>a</sup> witnesses names, as if it were the will of the intestate the pl[ain]tiff's ancestor. By this supposed will soe forged the lands aforesaid were given to the said C, the said C proved the said will in *communi forma*, and after came to prove it by witnesses who were the other defendants, who were sworne but not examined; and therfore there was a sentence in the Prerogative Court to disannull the said supposed will. The said C tooke an administration and brought her appeale in the Court of Delegates, where it was also disannulled and the former sentence confirmed; and for this practise desire the Court to punish the defendants, and to damne the said supposed will by sentence of this Court.

The Answere  
opened.

The matter appeared to be thus, as it was opened by M<sup>r</sup> Hudson of counsell with the defendants: that the defendant C was advised by her counsell that the cognizance of the proofe of the said will did not belong to the Ecclesiastical Jurisdiction, being a will of land, and therfore brought her prohibition, which came an howre after the first sentence. She did therfore, and for noe other cause, forbeare to examine her witnesses there: that the defendants' case was lamentable. The depositions of her witnesses in this cause were depressed by order of the Court, because a sollicitor had looked upon the depositions before the publication and altered some interrogatories, who was not an originall sollicitor, but thrust in himselfe and by practise to doe the pl[ain]tiff a goode turne for that tyme onely; and therefore desired that this, whether it were a good will or noe, might be referred to be tried by the lawe; and soe prayed the judgement of the Court whether they would proceed heerein as it stood now in Court.

Opinion of the  
Court.

The Court was of opinion because it was a will of land it was to be tryed by the lawe, and in this cause especially not to proceed now, because all the witnesses that were to the will were made partyes heere to take away their testimony; and that there was noe other way left to these witnesses to gett out of this danger but to

\* i.e. two.

referre the tryall to the lawe, because the depositions were suppressed, and soe three of the defendants being only witnesses might be here punished for forgery, being a greate punishment by default of C the defendant.

The EARLE OF DORSETT was of opinion that heere was great Earle of ground for a forgery as he ever knew in any cause, and alledged that Dorsett.  
as the Counsell had opened it there were two sentences, and she had taken administration, which she could not doe without oath that the intestate dyed without will to her knowledge; that the will concerned goods as well as land, and therefore belonged to the Ecclesiastical jurisdiction, and now to try it by an ordinary jury, whether these sentences were right or noe, would be very unseemly.

The LORD RICHARDSON answered that the case was cleare; if Lord it were a will of land it must be tryed by the lawe, but being of Richardson. lands and goods it might be proved in the Ecclesiastical Court; but as touching the land it was voyd, and for the goods it was good, etc. Therfore the will aforesaid was reserved to a tryall at lawe, Order of the and afterwards this cause to be presented heere in this Court for the Court. practises, if there were any, etc.

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In the Starre Chamber, 18 No: Mich. 7 Caroli Regis.

King's Atturney - - - - - Pl[ain]tiff.  
Thomas Rogers, and Mary Partridge, Dun-  
sterfield, and Skinner - - - - - Defend[an]ts.

This cause was begann 16 No: and thus then opened: That Jane The Bill. Cockin, sole daughter and heire of William Cockyn, Esqr., deceased, being committed to her Mother as her gardian, now married to Gawdy Tindall, Esq. The said Jane being but 11 yeares of age

was inticed by the defendant Rogers, a taylor and a serving man, by the meanes of the said Mary Partridge, to contract herselfe to the said Thomas Rogers: that after, in the night tyme, the said Mary Partridge let the said Rogers into the house, when the said Gawdy Tindall and his wife were in bedd and a sleepe; that the said Mary Partridge fetched the said Jane Cockin downe out of the chamber in her armes with her clothes off, all save her smocke, and brought her to the said Rogers, and there, betweene sleeping and waking, she was contracted to him: That afterwards the said Dunsterfeild, being a broaker, persuaded the said Skinner to goe with him to the Court to gett a licence for the marriage of the said parties. They came before the Surrogate, and Dunsterfeild there swoare that she was of the age of 16 yeares; that she was the daughter of William Cockyn of Greenwich, in the county of Kent, yeoman, and he being dead shee had her mother's consent, and therupon the licence was granted and made, but subscribed, Let not this marriage be solemnized without consent of parents. Therupon the said Mary Partridge and Rogers brought the said Jane into Greenwich parke, there to be married, and there was a priest provided; but when he saw the subscription aforesaid he refused to marry them. This was therfore to punish these foule practises, and to disanull the said contract. The defendant Rogers, being released out of prison to appeare at the hearing, bound by his own bond, now, viz<sup>t</sup>, the said 16 No: the said Rogers did not appeare, nor any other of the defendants, some of them being runne away. Therefore the Court ordered (though M<sup>r</sup> Attorney might proceed without serving a *subpena* to heare judgement in such a case) that the cause should stand till some of the partyes might be gotten and brought to the barre to be punished for example sake.

The Answeres. And this day Mary Partridge was brought to the barre in this Court, none of the other defendants appearing; wherfore the Court ordered that their answeres might be read. The said Rogers answered that what he had donne was with the consent of Gawdy Tindall's wife, mother of the said Jane: and that the said Jane

often used him kindly and received love tokens from him, and that the said contract was voluntary, etc. And the said Mary Partridge confessed her being at the contract. She denied the violence and force, that she was in Greenwich parke with her, the said Jane, etc. And soe the Court proceeded to sentence.

The Court declared that this cause was commended to Sr Robert Heath, K<sup>t</sup>, when he was Atturney, by the Court of Wards, by him to looke unto to be punished for example sake; the sentence, therfore, of the Court was, that Rogers should be fyned to the King 2000*l*<sup>li</sup>, and be imprisoned till he appeare in the Ecclesiastical Court; and the said Mary Partridge was fyned 40*l*<sup>li</sup> to the King; but the said Rogers was to pay it by the order of the Court, and she was to be imprisoned.

My LORD RICHARDSON was in doubt whether he should fyne him or imprison him, for to take her away barely by the Statute is but 2 yeares' imprisonment, or a fine.

The BISHOP OF WINCHESTER wished that those that had power to give licences in such cases would observe the canon, for then the broaker could not have carried it soe; but the parent should have been heard.

My LORD KEEPER would not have Rogers bound by decree of this Court to disavow the contract, nor bynd the Ecclesiastical Court, nor any in this case what to doe. Dunsterfeild and Skinner ranne away before their answere, therfore nothing was donne against them.

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Alexander Walker - - - - - Pl[ain]t[iff].  
Nicholas Rickby, Robert Lilly - - - Defend[an]ts.

The bill was for forgery and perjury, and subornation of perjury. Forgery. The defend[an]ts pleaded not guilty. The case was, that the plaintiff had brought an action of the case against Rickby, the de-

fend[an]t, and upon *non assumpsit*; the defend[an]t shewed the pl[ain]t[iff's] release in evidence, and proved it by the said Lilly, whereupon the pl[ain]tiff was *non suit*; afterwards the pl[ain]tiff brought another action, and Rickby pleaded the release, and Lilly swoare that he sawe the said release sealed and delivered by the pl[ain]tiffe, whereupon there was a verdict against the pl[ain]tiff and a judgment upon it. The pl[ain]t[iff] supposed by his bill that the said release was forged, and proved by a woman and a witnesse of eight yeaeres old that the said Rickby was not present when and where the said release was supposed to be made and delivered. Lilly swoare it againe upon his oath, and the defend[an]t brought another witnesse to prove the sealing and delivery of the said release. The Court therfore weighing the verdict and judgement thought not fitt to examine the deed in this Court, especially seeing there was but one woman and a childe against a verdict and two witnesses; and seeing the plaintiff had exhibited a bill in the Chancery, and not mentioned a word of the release: Therfore this bill was by order of the Court dismissed.

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Perjury  
against  
Williams.

This day the Court dismissed a cause against one Williams for perjury, committed in an affidavit in the Court of Wards for the procuring of an injunction, whereby the plaintiff was stayed at common lawe. The Court thought fitt not to heare it, being of points immaterial and not in issue: and

My LORD RICHARDSON vouched the like case where the perjury was assigned to be about hey, in Rumney Marsh in Kent: that the defendant should sweare that the hey was as good as any hey in Rumney Marshe: this Court would not try this perjury.

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King's Atturney, by the relation of my Lord  
 Dennicourt<sup>a</sup> - - - - - Plaintiff.  
 William Leake, Esqr., the Lady Leake, and  
 others - - - - - Defend[an]ts.

The first charge was for forgery and putting a new seale and Bill. labell unto a deed which Sr Francis Leake, father of the Lord Dennicourt and of the said William Leake, had destroyed; and for making a will, supposing it to be the will of the said Sr Francis Leake when he was *de non sano* memory; and this charged upon my Lady Leake. The second charge was for imbracery<sup>b</sup> of jurors at a tryall at the Assizes, and this charge was likewise upon my Lady Leake. The third charge was for a riott upon the said William Leake, shewing that the Lord Dennicourt, being in possession of the mansion house and mannor of Haughton, by vertue of an injunction out of the Court of Wards: the said William Leake made a riot with others of the defendants, entring with force; and the said Lord Dennicourt being in the parlor of the said house, the said William Leake walked up and downe, and whiffed tobacco in the Lord Dennicourt's face: and in publique used these words to my Lord Dennicourt, My Lord, I wonder you weare not a sword, being a noble man, and offered to lend him his sword: and then sends forth into the towne to cause the bells to be runge for joy of this possession gotten. The fourth and last charge of the bill was against the Lady Leake and Mr. William Leake, for contriving a petition in the name of Sr Francis Leake, deceased, father of the said Lord Dennicourt, without the consent of the said Sr Francis: the said petition shewing that the Lord DennyCourt was disobedient to his father in bringing a Suit in Chancery against him to the end to bring the said Lord Dennicourt into an ill

<sup>a</sup> i.e. Deyncourt.

<sup>b</sup> To instruct the jury, or promise reward for or before appearance.—*Covell's Law Dictionary.*

opinion with the King and the Lords of the higher house of Parliament, to whom the said petition was preferred.

Answeres.

Proofes.

The defendants pleaded not guilty.

S<sup>r</sup> JOHN FINCH, for the relator, shewed that the Lady Leake, whome the charge mainly concerneth, is dead. He beganne with the imbracery, and it was proved by one witnesse that Jackson, one of the defendants, came to the deponent, being a Juror in a tryall betweene my Lord Dennicourt and his mother the Lady Leake, at the Assizes at Derby, 1627, and asked the deponent in the Greene Yard if he were not of this Jury; the deponent sayd Yes; then the said Jackson tolde this deponent it was a trifling cause against the said Lady by the said Lord Dennicourt, her sonne, and wished the deponent to be for the Lady, but, the tryall goeing for the said Lord Dennicourt, the said Jackson afterwards intreated the deponent to conceale what he had said unto him, for my Lord Dennicourt was a great man, and he feared to be sued. For the riott, the relator proved that William Leake had a sword, and his servants that came with him had swords, but this was not held enough to make a riott, for that it is commendable for a gentleman to weare a sword, and his men to wait on him with swords. For the maine practise about the deed.

That S<sup>r</sup> Francis Leake 18 Sept. 18 Ja: made a deed limitting the use to my Lady Leake, and to the said William Leake, of the Mannor of Haughton, with power of revocation upon tender of 20<sup>a</sup>, that this was revoked by tender of 20<sup>a</sup> accordingly: the deed which the said William Leake claymeth by was made in August 20 Ja: this the said S<sup>r</sup> Francis cancelled, as the relator proved by one witnesse, one Francis Lance, a youth. S<sup>r</sup> John Finch shewed further that this deed was with power of revocation too, but by his last will and testament. That 5 Sept. 22 Ja: the said S<sup>r</sup> Francis made a lease for yeares to the said Lord Dennicourt, rent 12<sup>s</sup>. My Lady hearing that the former deed was cancelled, and that S<sup>r</sup> Francis was resolved that William Freake<sup>a</sup> should not have

<sup>a</sup> i.e. Leake.

Haughton Hall, shee 17 Sept. 22 Ja: procured S<sup>r</sup> Francis to release the power of revocation of the said cancelled deed, and getteth lands called Meers lands in security, that this Mannor should be to her sonne William Leake, and in Aprill, 1<sup>o</sup> Caroli, the when S<sup>r</sup> Francis was not of disposing memory, and in May following the said S<sup>r</sup> Francis dyed.

My LORD KEEPER said all this would not prove a sticking on a new labell and putting a new seale to it; to prove this, it is endeavoured to be proved that S<sup>r</sup> Francis pulled off the seale and labell and swoare his sonne William should not have it, and this is by one Witnessse.

M<sup>r</sup> FOUNTAINE, for the relator, moved that the Court would damne this deed seeing it was cancelled, and then set on foot againe by the said Lady Leake when S<sup>r</sup> Francis was of *non sane* memory; but the Court was of opinion that it was to be dismissed to the tryall of the lawe; that there was but one Witnesse's deposition, viz<sup>t</sup>: Francis Lance, a boy, to prove the pulling off of the said seale. And it is proved in the booke that this Lance was turned away a yeare before the supposed cancelling of the deed; and that my Lady Leake delivered the deed to one M<sup>r</sup> Pimme, and he kept it till S<sup>r</sup> Francis Leake's death, and she swoare it was the very deed, and had a leafe upon the seale; and it was proved how at the office the said Lance was asked this question: Did you see this deed cancelled? And he answered: I cannot say soe, but I sawe a deed cancelled. For the fourth charge nothing was proved. The Court dismissed the cause.

Dismission.

In the Starre Chamber, Michaelmas, 23 No. 1631, 7<sup>o</sup> Caroli.

|            |  |                               |
|------------|--|-------------------------------|
| Before the | Lord Keeper of the Great Seale.                | The King's<br>Counsell there. |
|            | Lord Privy Seale.                              |                               |
|            | Earle of Arundell.                             |                               |
|            | Lord Viscount Falkland.                        |                               |
|            | Lord Bishop of London.                         |                               |
|            | Lord Bishop of Winton.                         |                               |
|            | S <sup>r</sup> Thomas Jarmin, K <sup>t</sup> . |                               |
|            | S <sup>r</sup> John Cooke, Knight.             |                               |
|            | Lord Richardson.                               |                               |
|            | Lord Heath.                                    |                               |

|   |           |               |
|---|-----------|---------------|
| King's Attorney   | - - - - - | Pl[ain]tiff.  |
| William Taylor, Toby Pedder, John<br>Tovy, Nicholas Browne, Robert<br>Mony, John Bolt, and Henry<br>Conger                  | - - - - - | Defend[an]ts. |
| For forstalling the marketts, malting contrary to the<br>King's orders, etc. <sup>a</sup> and inhancing the price of corne. | - - - - - | Pl[ain]tiff.  |
| King's Attorney   | - - - - - | Defend[an]ts. |
| John Lamond and Howell ap Richard<br>For coyning of farthing toakens, etc.  | - - - - - |               |

The confession These 9 defendants were this day brought to the barre to heare  
of the judgement *ore tenus* upon their confessions. The said Corne-  
defend[ant]s. masters were examined by order of the Court before S<sup>r</sup> John Finch  
and S<sup>r</sup> William Denny, and their several examinations were shewed

<sup>a</sup> Proclamation Sept. 20, 1630.—Rymer, xix. 195. Compare the orders in the *Council Register*, 1630-1631.

unto them; and after they had acknowledged their names or markes subscribed, their examinations were severally read. And first the said William Taylor confessed he tooke notice of the King's Taylor restraint of malting by his orders and proclamation; he bought some corne out of market, he brought none of his barley to market; he malted 30 quarters, and spent it in his house and in provision for his shipping, and sent 40 quarters of barley to New Castle to barter away for cole.

Toby Pedder confessed he tooke notice of the proclamation and Pedder orders: he had the last yeare 40 quarters of wheate, 10 quarters of rye, 260 quarters of barley; he bought wheate for seed and sould none at any markett in the country; he bought 25 quarters of barley for seed and sould none at any markett in the country; he bought 25 quarters of barley for seed and 30 quarters for malting, and put it out to malting; he sould none at markett, but sould to one of Peterborough 100 quarters of barley; and he sent 50 quarters more to Peterborough, and sould them out by small measures since Christmas last.

John Tovy confessed he took notice of the proclamation, etc. : Tovey. he had 30 quarters of wheate, 5 or 600 combe of barley, and 15 combes of rye; he bought some corne, but sould none in the markett, but sould 100 combe of barlie before hand.

Nicholas Browne, of Walsingham, in the county of Norfolk, Browne. Gent. confesseth he bought corne to sowe, that he hath a licence to convert barley into malt under 2 justices' hand; he sould his corne that he had the last yeare at his house, some to the bakers of Walsingham, and some to the poore at 1<sup>s</sup> a bushell; he malted 30 quarters for his own provision and sould some into Yorkshire, and he spent 16 quarters in his family. Upon a further examination he saith he bought noe corne in the markett but contracted for it there, and brought none to the markett, for that it is not the custom to bring any to the markett in their parte of the country.

Robert Money, of Welles, in the county of Norfolk, yeoman, Money. saith that S<sup>r</sup> Hamond Lestrange appointed him to overview the

quantities of corne for the hundred; he did not buy any corne this yeare, he spent all he had, save some he sould to his labourers at home; thus of his wheate; for his barley he sould 60 combes to one of Ipswich, who by warrant, as he sayd, had authority to carry the same to Ipswich, and some he kept in a chamber for the poore, and some he sent to London, where he sould for the best rates, and when their hundred was provided for their Justices tould them they might dispose of their corne as they pleased.

Bolte.

John Bolt confesseth he had the last yeare 50 combes of barley, 30 combes of wheate, and 9 combes of pease; he bought 160 combes of barley, the most he converted into mault, and kept some for the poore. Upon a further examination he saith he contracted for the corne in the markett, but it was brought home to his house by one Dutty; he confesseth he brought noe corne to the markett, because S<sup>r</sup> Hamond le Strange tould them they might dispose of their corne as they would, and it is not the custome of their country to bring corne to the markett; if they did none would buy it, but they must be forced to carry it home againe.

Conger.

Henry Conger confesseth he had the last yeare 100 combes of rye, 20 combes of wheate, and 20 combes of barley; he sould to two citizens of London, a grocer and a baker, who had a warrant from the Lord Maior and Aldermen to buy corne for the use of the City of London, all his corne; that he bought sone corne for seed but brought none to the markett.

Hamond.

Then was likewise read the severall confessions of the 2 farthing coyners, and first the confession of John Hamond, of the parish of S<sup>t</sup> Thomas the Apostle, London, stationer. He confesseth that he was at Latham, in Suffolk, and that he sawe there a devise or presse to make farthings, but he sawe none made. He was carried to the assizes, and delivered out of Bury Gaole; it is true he was promised by Warner that he should hand a share of 35<sup>s</sup> a weeke, but he deceived him; he had been in gaole and had no recompense; that Warner made the tooles; that Warner had 18<sup>l</sup> in money of him and 28<sup>l</sup> worth of copper, and he provided rules and cutters for

making of farthings, and at another tyme bought 10*l* worth of copper and delivered it to Wood and Wootton.

Owen <sup>a</sup> ap Richard confesseth he had an iron mill for making of Ap Richard. farthings, and that he had wrought in it often, and sometimes at Totnam High Crosse; that they have made 5*l* worth of farthings since Whitsuntide last; that he had some, and others of the partners had some, and he put them away for butter, chese, etc.

Then Mr ATTURNEY shewed their Lordshipps that heere were two great causes before them, both to the hurt of the poore: these 7 are great corne masters; they had great store, but would not bring to the markett, and the poore they want it. In all places in the tyme of dearth it is used, and hath been used in this Kingdome to sett provisions for supply of the marketts, as it pleased his Majestie the last yeare to sett forth ordinances wherein are at least 4 provisions that speake of supply of the marketts, and this was in pursuance of the common lawe, for the markett is ordained for that cause. For these 7 men they all dwell neare together in Norfolk at Walsingham, Welles, and Burneham; they make a market of men and leave the corne at home, 15 E. 2, because that corne was exceeding deare men were commanded to bring out their corne; and if they did not then some were appointed to doe it; and I observe in London a great number and quantitie of all commodities allmost together, cloath in Watling Streate, a greate number of drugges in Bucklersbury, a great number of fish in the fish streates, a greate deale of flesh in the shambles: the reason is that men may see the plenty of the markett: but when they see a great number of men, and noe corne at Burneham markett soe that men cannot make an estimate of the price of corne, this must needs inhance the prices: but they say it is not the use of the country to bring corne to the markett; this is noe good use, but an ill, and to be abolished, and must needs be by combination between themselves; but they make another excuse: they say the Justices directed them when their

Mr. Attorney-  
Generall.

<sup>a</sup> Howell in the side-note.

hundred was served to doe with their corne what they would; heere they preferre the Justices' opinion against the King's directions. I speake not much against these gentlemen they are not defendants, whether they were landlords and might hope for some gaine by it I know not. They bought corne and sould all out of markett, none did appeare in the markett: then we must conclude there is a scarcity, and soe a dearth must arise, these men did buy corne and contracted in the markett, and to have it brought to their houses; soe the country must not see the fruit of the ground. *Væ obscondenti*, woe to hiders of corne; they may buy for seed, but then they must bring some to markett for it, but they bring home and sell abroad, not in the markett: these men have offended against the common law, and by the King's ordinances sett forth they were putt in minde of the common lawe what the lawe was, but the[y] followed it not but followed the advice of the Justices of peace that were deceived: and Mr Attorney shewed that it is in the oath of the Lord Maior to sett prices on corne.

There is another provision for the poore, the businesse of farthings, the poore cannot make their provisions in the great, and therfore it is good they have an halfpenny in farthings to buy plants and roots and herbes. 9 E. 3, the first statute for farthings, whereby it was commanded that none should melt up the halfpennies and farthings to make plate of them. 5 E. 3 in the 12 rolle, halfpennys and farthings were ordained for the Realme of Ireland, shewing the necessity of farthings. 4 H. 4, chap. 10, a. 3, parte of all the silver was to be made into halfpennies and farthings, which all shewe the great care that was ever had for halfpennyes and farthings. In after tymes they could not make farthings of silver without great losse, for then silver was at 20<sup>d</sup> an ounce now it is at 5<sup>s</sup> the ounce, for the standard could not beare it, heeretofore therfore there were farthings made between man and man of brasse, and they were lost. King James directeth and commandeth that there should be farthings made of copper and they were found good, and the ordinance good: now these men goe about to destroy the

making of farthings, and to breake him that is appointed to make them, he must change them at soe much, at 18<sup>a</sup> a pound worth. In all kinde of husbandry, men should sell more then they buy, now, if this goe on, they must buy more then they sell. These men have confessed the offence, they were plotters, they were sharers, they gave the tooles; and this Hamond was heere heerto-fore, and was in Bury gaole for the same; he saith he was cosened, but that diminisheth not his fault; for this Owen ap Richard, he was a workman and a sharer, I shall leave them all to your Lord-shipps' censure.

These offenders were all severally demanded by the Lord Keeper The what they could say for themselves. The 7 corne masters answered Arraignment of the Defendants. severally, some that it was their first offence, some that they fell into it unwillingly, but the most relied on this, that it was their custome not to bring corne to the market, and that the Justices directed them, when their poore was provided for, to doe with their corne what they would, and this they sayd in extenuation of their offence, if any were.

The Court expostulated with them severally, and to him that said he did not make mault himselfe, but put it forth to be made, it was answered that this was Frammingham's case in Queen Elizabeth's tyme; men must make mault in their owne houses: and to them that said their custome was not bringing corne to the markett my LORD KEEPER answered, with a deprecation:—God forbid that Norfolke should be divided in custome from all England not to bring corne to marketts: and my LORD RICHARDSON (who is a Norfolke man) said that at Norwich and Yarmouth, and at other places in Norfolk, there is great plenty of corne brought to the marketts; for that these men pretend a custome for their parte of the Country, and within 16 myles from home it is otherwise. One said he was constrainyd to sell his corne before he heard of the proclamation; but it was answered by my LORD KEEPER that he sould his corne unlawfully out of markett. Mony, one of the defendants, said that Frammingham's case and theirs did not agree,

for he was a decayer of tenements, and never would sell his corne, but lett it be spoyled. To this it was answered, that Frammingham was an inhancer of the price of corne and soe were they, in not bringing forth their corne into their marketts.

The farthing coyners confessed their offence, and submitted themselves to the Judgement of the Court. Their milles and engines were brought into the Court, and Mr. Atturney moved that heertofore they were wont to be broken, and the parties put to sweare they would use them noe more, and that the Court would therfore consider what is to be donne with them: and it was ordered it should be taken from them and kept safely, etc.; and soe the Court proceeded to the censure of both the causes together.

Censure of  
the Court.

The Court declared that these 7 men were guilty of an high offence against the King's orders and directions, and against the common law, that the same orders were sett forth in King James his tyme, and the same in effect in Queene Elizabeth's tyme; that this their offence was likewise against the comon law and against diverse statutes 31 E. 1, against forstalling 5 Eliz. against ingrossing and the auncient points of the charge. By *Magna Charta* we are to inquire (said the LORD RICHARDSON) of all raisers of the price of corne, that it was to make the shekell greate and the Ephah small, to harden their hearts againte the poore and to grinde their faces, and it was well observed that both the foresaid offences mett at this center, the prejudice of the poore, for the one would let them have noe bread, and the others noe small money to buy bread: that their not bringing their corne to the market to serve it caused a dearth; for opinion makes a dearth att any tyme, saith my LORD HEATH. The EARLE OF ARUNDELL was willing to extenuate the offence saying that it was error in the country, and hoped it should be amended, but yet agreed to their fynes. LORD PRIVY SEALE would not censure Money for that he bought noe corne, but sould only out of markett. LORD KEEPER censured them all for buying out of markett, for ingrossing and forestalling the marketts, and for not bringing their corne to markett, an high

contempt against the King's orders and directions, and therfore it was an offence exceeding fitt to be punished in this Court: and by the vote of the Court these 7 were fyned 100*l* a peece, and to acknowledge their offences at the Assizes for example to others: and the 2 farthing coyners were fyned<sup>li</sup> 500 a peece, to be sett upon the pillory, to be sent to the house of correction, to be there set on worke and be imprisoned during the King's pleasure to be declared under his seale manuell.

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In the Starre Chamber, 25 No[vember], Mich[aelmas], 7<sup>o</sup> Caroli R[egi]s.

King's Attorney - - - - - Pl[ain]tiff.

Richard Carrier, Clarke, Jennet his wife,  
Samuel Noton, Richard Winckfield, Tho-  
mas Godalby, George Wright, and al[ii] - Defend[an]ts.

The Bill conteyned three charges against the defend[an]ts; the The Bill.  
first was for oppressions and extortion supposed to be committed by  
the defendant Richard Carrier and some of the other defendants  
enjoying an office or place under him, or some person to his use  
called Deputy Barmasters: the second charge was for two or three  
severall riots committed in prosecution of the said oppressions and  
committed by the said Richard Carrier and his said wife and others  
of the defend[an]ts: the third charge was for irreligious and pro-  
fane speeches to the disgrace of the State and his Majesties governe- Sir Kelham<sup>a</sup>  
ment, supposed to be spoken by the said Richard Carrier. For the Digby was said  
to follow this first of these it was shewed by the Relator's Counsell that the cause, therfore  
I think he was defendant Mr. Carrier, being a Clergyman and a Justice of peace the Relator.

<sup>a</sup> i.e. Kenelm.

in Derbyshire, had obteyned from his Majestie a lease of the tythe oare and lead, and of the profitts of the lead mynes in the said county of Derby due to his Majestie, and that the Patent was made to one <sup>a</sup> Parker for the use of the said Mr. Carrier; that he that had the lease was allwayes termed and called their Barremaster, that he had a Steward, and held 2 Courts by the year, called the great Barremote Courts, in manner of two Leetes, besides other courts called the little Barrmote-Courts. The Jurors were as a grand Jury; there was sometimes 24 of them and they were called Deputy Barre Masters: in these Courts they tried plaints and differences betweene the minors for minerall causes: and the Barre Masters, viz<sup>t</sup> the deputy Barre Masters, measured the oare with a brasen dish and sett out the Barre Masters tythe, etc. The oppressions and extortion was sett forth to be donne in this manner: Richard Carrier sate in Court with the Steward: he directed the Jury to fynd for which party he pleased, and threatened the Jurors if they would not fynd as he directed them, they should be of the Jury noe more, and used threatening words against the Jurors that he would make the beggerly roagues stand in fear of him. That, in every suit, the Deputy Barre Masters tooke of the plaintiff 6<sup>d</sup>, and of the defendant 6<sup>d</sup>, and of every witnesse 4<sup>d</sup> to be paid by that party that produced him, that Richard Carrier sate by, and refused to lett the tryalls goe on if the plaintiff denyed to pay his 6<sup>d</sup>, whereas there was never any such fees due. That the Deputy Barre Masters exacted and tooke gifter<sup>b</sup> oare with violence, and would not measure their oare unlesse they would pay them their gifter oare, and, if they would not pay it, threatening to make the minors to bring their oare to the Towne Hall to be measured by the standard brazen dish, and the said Richard Carrier affirmed he would allowe them their taking of guifter oare, and that it was as due to them as the tythes to him: and that they might take as quantity of guifter oare as much as they pleased.

<sup>a</sup> Blank in MS.

<sup>b</sup> As a gift or fee.

For the riotts that they were committed in barbarous manner, Prooferes. pulling the minors out of their groves<sup>a</sup> by head and shoulders, and tooke away the oare from them which they had no right to, by forfeiture or otherwise: That Richard Carrier and his said wife were present, and she held a drawen knife in her hand, and said:—If I should kill one of the rogues it were but an hanging matter. That the deponent's grove was broken open, and 7 dishes of lead oare was taken out that was not forfeited; that the deponent repaired to Richard Carrier, being a justice of peace, and complayned to him against the riotters, and desired to have his oare againe, and the partyes to be brought before him; but the said M<sup>r</sup> Carrier wished it had been more, and said he would mainteyne and beare them out in it who tooke the said oare away: that a tryall was had against the said M<sup>r</sup> Carrier, defendant, at the suit of one John Eaton, pl[ain]t[iff], for himselfe and the King, upon the statute, for that the said M<sup>r</sup> Carrier, being a clergymen and having a spirituall promotion, viz<sup>t</sup>, a benefice of 400*l*<sup>l</sup> *per annum*, had likewise taken a farme or lease of the tythe oare, called the lott and cope,<sup>b</sup> from his Majestie, under the seale of the Dutchy of Lancaster; and that the verdict went against the said M<sup>r</sup> Carrier, for that the lease was made to one Parker for the use of M<sup>r</sup> Carrier.

The profane words charged upon the said Carrier were 3 or 4 sentences or assertions spoaken by him at severall tymes since the beginning of the raigne of the King that now is. The first was this:—That there might be a purgatory for ought he knew, and that it was noe harme to pray for the dead. The second thing was

<sup>a</sup> Grove or groove is defined in Mander's *Derbyshire Miner's Glossary* as "the works that the miners make in the mines in sinking by shafts, driving by drifts, enttings, sinkings, drivings, pumpings," &c.

<sup>b</sup> Mander, in the book just quoted, states that lot is a customary duty of every thirteenth dish payable to the Crown or its grantees, and that cope is a tribute payable to the king after the miner's liberty to sell his ore to whom he pleases.

this, that there was a double persecution in our kingdome, one against papists and another against protestants. The third thing was that it was never good since there was soe much preaching, and for the people—hange them—let us gett what we can out of them, and let them goe to the devill. The fourth was this: That there went but a paire of sheeres between a papist and a protestant, and that it was not a pinne to choose of which religion a man is: and many witnesses were this day read on the relator's part to prove the said charges: and the rest of the cause was referred to be heard the next terme: for this was the last Starre-chamber day, but the day after the terme, which is onely for motions usually.

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In the Starre Chamber, 25 Jan[uary], Hill[ary], 7 Car[oli] R[egi]s].

King's Attorney - - - - - Plaintiff;

Richard Carrier, Clarke, and others - Defendants.

After that S<sup>r</sup> John Finch for the relator had recited the charges of the Bill shorteley, and in breife manner naming the foule speeches, the BISHOP OF LONDON and my LORD KEEPER viewed their notes, and affirmed that the witnesses did not agree about the said scandalous words.

Answeres and Defence. Then Serjeant Bramptstone, for the said Richard Carrier, undertook parte of the defence, and beganne with the words, and affirmed that M<sup>r</sup> Browne for the words of a double persecution is but a single witnesse; and that John Jell for the words for purgatory and prayer for the dead, and those against preaching, is but a single witnesse: that John Jell, S<sup>r</sup> Humfry Ferris and Stone doe

not agree of the words of the little or noe difference between a papist and a protestant: that all the words fall out of the charge of the bill as they are indevored to be proved; and that there is but one witnesse that speaketh of the tyme that they were spoaken within the time charged in the bill: that the words that were spoaken about purgatory were by way of argument at a feast where the said Sr Humfrey Ferris, Richard Carrier, and John Jell and others mett; and that Sr Humfrey Ferris provoked Mr Carrier, saying he would dispute with him for his Vicaridge of Wraxall: that the witnesses the said Sr Humfrey Ferris and Mr Jell and Mr Browne were accusers rather than witnesses; that they complayned not till about 4 yeares after the words, they put the accusation in writing and desire to get others to witnesse them, and many witnesses were read to make good this defence.

The same day Mr Littleton, Recorder of London, undertooke the other parte of the defence touching Mr Carrier's actions; he impeached some of the relator's witnesses, and some that they are but single witnesses for what they say, and then came to the supposed oppression of the minors and the riotts; and shewed the story of the differences betwenee Richard Carrier and the minors. Michaelmas, 17 *Jacobi*, there is a suit betwenee Richard Carrier and the minors for denying their tythes, and 20 *Jacobi* a decree in Chancery that Mr Carrier should enjoy his tithes. Then a suit was begunne in the Dutchy Court against some of the minors for lott and cope and gifter oare, and 13 February, 1 *Caroli*, a direct order in the Dutchy Court for the injoying of the tithe and of the gifter oare. 3 *Caroli*, Trinity, there is an information in the Exchequer for taking of the gifter oare; and June, 3 *Caroli*, a little before this suit, they make an affidavit, wherein they sweare as much as they complaine of heere, and their suits mainteyned by contribution of the minors. 4 *Caroli*, they bring this bill. The gifter oare is taken by the deputy Barremasters for their paines in going to the severall groves of the minors to measure their oare, and they deserve it for sometymes they goe to measure oare two or three myles; and

if they tooke not this paynes, the minors are compellable to bring their oare to Wraxall to the hall there to be measured, that heere they doe but make good their bill and affidavit in the Exchequer. That for the countenancing of causes it is not charged in the bill but in generall, and that a generall charge is not good, but the court agreed if there be a particulare and in that a generall, the prooef of the generall with the particulare shall aggravate, etc., as if the charge had been that he had countenanced a cause betweene A.B. pl[ain]t[iff] and C. defend[an]t for the pl[ain]tiff and many other causes, etc., that the jurors continue for a long while, and they change none but upon death, voluntary absence, or sicknesse, that the foreman of the jury, Mr. Carrier's parish clarke, was a minor, and a fitt juror, etc., that the riotts were but lawfull executions of judgements in the said minerall court, and M<sup>r</sup>s Jennet Carrier had a knife in her hand, it is true, to tally a sticke to shewe how many dishes full there were, and for the words supposed to be spoken by her, there was but one witnesse, etc.; and divers witnesses to make good this defence; and this was all that was donne this day, saving two or three motions which were before this cause beganne.

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Mr. Hudson's  
Motion for my  
Lord Keeper.

The first motion was by Mr. Hudson for my Lord Keeper against Bonham Norton:<sup>a</sup> he was sentenced in this court, wherupon there went forth an extent to seize his lands and goods, one of his friends advised him a little before the hearing to passe away his estate, which Bonham Norton did within 3 weekes after the cause was sett downe for hearing. A certificate heerein was made by 2 of the judges, Lord Richardson and Lord Cheife Baron, to whome it was referred, by order, and it was now read purporting that a bargaine

<sup>a</sup> He had been one of the King's printers. He was charged with spreading a rumour that Lord Keeper Coventry had taken a bribe. See List of Causes, June 17 1630. *W. Dom.* clxix. 5.

and sale was made by Bonham Norton to one Joyce Norton of his house, and all his stationary wares and goods to the value of 4000*l*, and this was in consideration of better security of 800*l* debt which was before sufficiently assured, his shoppe was not assigned with the house, but he kept the shoppe and his apprentices sould the bookes, and bought things to drive the trade and that he had noe benefitt by the said deed, all which they thought were badges of fraud, etc.

This deed was adjudged fraudulent in respect of this sentence and made to defraud the execution thereof, and therefore ordered to remaine heere in court, and not to stoppe the execution of the sentence any more, and the fraud to be punished as a contempt.

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There was also another motion made by Mr. Attorney against Mr. Attorney. the ranger and others of a chase called <sup>a</sup> Chase, which was to be disafforested by consent of the country, in the Exchequer, the said ranger, as appeared by an affidavit read, intertained one called Skimmington and lett him hunt and kill a deere, and he Disafforestation. threatened and used some violence to the agents there for the king, that he would serve them as he did others that intrenched upon his liberties in the Forrest of Deane. Mr. Attorney moved for a serjeant at armes to goe for the ranger and some others, and it was granted, and a commission to be given to the serjeant for assistance to 3 counties.

<sup>a</sup> Blank in MS.

In the Starre Chamber, 27 Jan[uary], Hill[ary], 7 Caroli R[egi]s.

|                                     |   |   |   |   |                          |
|-------------------------------------|---|---|---|---|--------------------------|
| King's Attturney                    | - | - | - | - | Plaintiff.               |
| Richard Carrier, Clarke, and others | - |   |   |   | Defendants. <sup>a</sup> |

Reply.

S<sup>r</sup> John Finch for the relator this day replied. First he acknowledged the justice of the Court in hearing this cause, and added this sentence, *Unum pondus una mensura*. He shewed that M<sup>r</sup> Carrier bought the Barre master's place, and the tithe oare of the lead mines called the lott and cope in his brother's name<sup>b</sup> Parker, yet by reason of this graunt M<sup>r</sup> Carrier tooke the proffitts and oppressed the minors. He appointed the steward and deputy barre masters, and when one complayned to him of one of these riotts he misused his office of justice of peace, and said he would beare out the riotters in what they had done. That Thomas Bold was an unfitt man to be foreman of the jury because he was M<sup>r</sup> Carrier's parish clarke, and noe minor. Confessed that Anthony Stevenson was a fitt man; and whereas it was objected on the other side that to prove the violent taking of the gifter oare there was but a single witnesse, S<sup>r</sup> John shewed they had forgotten to read one, and that was, Ephraim Ferne, who saith that he hath seen and knownen the cheife and deputy barre masters to have and take 6d. of the plaintiff and 6d. of the defendant, and 4d. for every oath administristed in causes sued in the said Barmote Court, and to have taken gifter oare by force; and that M<sup>r</sup> Carrier said he would make it good, for it was due to them as lott and cope to him, and that the deputy barre-masters might take what they list.

The proceedings in other Courts are called a story; but it is of record. Those suits were for tythes and not for gifter oare. It is true there was an affidavit and an information in the Exchequer,

<sup>a</sup> Continued from p. 94.

<sup>b</sup> Blank in MS.

and the suit in the Dutchy was the same and the prosecutor there was but poore being followed onely by one Godby. This information heere was put in by Mr. Attorney, and although M<sup>r</sup> Carrier demurred heere because of the suit in the Dutchy, yet it was overruled, and ordered that he should answere.

There was a necessity that the Barre Masters place should be in the name of M<sup>r</sup> Carriers brother lawe,<sup>a</sup> but it was to his use; yet he sweares he hath nothing to doe with it, yet as Barre Master he will sitt in Court and countenance causes and threaten juries; yea, but it is objected that this is not charged but generally as the countenancing of causes and directing of juries. Then the charge of the bill was read, viz., that M<sup>r</sup> Carrier as Barre Master aforesaid in his owne name or others did sitt in the Court and countenance causes and directed the juryes. S<sup>r</sup> John Finch saith the bill is heere in reasonable manner; certaine that a bill heere is not to be soe strictly taken as at common law; the declaration is to be taken: if there be superfluity in the bill shall that hurt the charge? or shall it conclude the Court upon evidence not to fynd the truth.

M<sup>r</sup> Hudson objecteth that it appeareth by the defend[an]ts answere that he is not Barre Master: but the Court declared that it was against the rules of the Court to read the Defend[an]ts answere but at request of the plaintiff, and that the answere of one defend[an]t could then onely be read against himself, and not against other defendants, unlesse the hearing be upon onely bill and answere; and that the answere of the wife could not be read against the husband that it was soe resolved; but it was objected that in a great cause lately the wife was a witnesse against her husband, it was answered that the wife was there a party grieved and complaingning for the king, and there was noe other witnesse.

For the matter in the Exchequer and the Dutchy it is the same with this, but it is noe new thing to complaine heere for matters beginne in other Courts.

For the justifying of the gifter oare to be taken that the order in

<sup>a</sup> i.e. Brother-in-law.

the Exchequer was but to send it to the Court where it was before, and the order in the Dutchy was since the information in this Court. It is true there was some given to the Deputy Barre Masters for their paines, and it is called therefore gifter oare, and it was left to the minors wills freely to give, but that they should take what they list is uureasonable.

For the contribution that was alledged, there was none in this cause and it may be by leave of the Court, and that the Lord Keeper hath given such leave in the Chancery.

But it was objected by Mr Recorder and soe agreed by the Court that the bill ought to shewe what cause in particulare was countenanced and what jury threatened and directed, etc., or els the defendant cannot make his defence possibly, for he knoweth not what the plaintiff will particularly insist upon.

S<sup>r</sup> John Finch proceeded to speake of the charge and proofes thereof concerning the words. He shewed the words were divided into 4 particulares. 1. That there might be a purgatory; and 2. That there was a double persecution of the Papists and Protestants and both by the lawes of the realme. 3. That it was never good since preaching came up, and for the people, hang them, let them goe to the devill. 4. That there went but a paire of sheeres between a Papist and a Protestant, and not a pinne to choose of what religion a man is. It is objected that some of the witnesses are willing witnesses and they sett it downe in writing; it is true they tooke care to sett it downe for it was to be complained of to the king. It is objected these were but table talke, and at a feast, etc., yet they are foule things and not fitt to be concealed. Should treason spoaken at tables be concealed? Though S<sup>r</sup> Hum[phrey] Ferris be excepted against for provoking Mr. Carrier to dispute with him, and Mr. Borne for that he is an officiaall and tould not his Ordinary of it according to his office, and that he is a Puritane, etc.; yet Mr. Jell is voyd of all exception. They say that the words, not a pinne to choose, were spoaken at a feast in King James' tyme. Those words we say were spakcn at divers tymes and att the feast also, and Thomas Stone proves the feast to be in King Charles his tyme.

In the Starre Chamber, 1 Feb[ruary], 7<sup>o</sup> Car[oli], R[egi]s. Hill[ary].

Before the

Lord Keeper of the Great Seale.  
 Lord Privy Seale.  
 Earl of Arundell.  
 Earl of Pembroke and Montgomery.  
 Earl of Dorsett.  
 Earl of Bridgewater.  
 Lord Viscount Wentworth.  
 Lord Viscount Falkland.  
 Bishop of London.  
 Bishop of Winchester.  
 S<sup>r</sup> Thomas Jarmin, K<sup>t</sup>.  
 S<sup>r</sup> John Cooke, Knight.  
 Lord Cheife Justice Richardson.  
 Lord Cheife Justice Heath.  
 Chancellor of the Exchequer.

The King's  
Counsell there.

King's Atturney . . . . . Pl[ain]tiff.

Richard Carrier, Clarke, and others . Defend[an]ts.

This cause came this day to be sentenced. My LORD COTTING-  
TON found Mr. Carrier and others of the defend[an]ts guilty of the  
violent taking of the gifter oare and of 2 of the riotts charged in the  
bill; he found Mr. Carrier not guilty of the exactions of fees and  
countenanceing of causes, not but that there was enough proved, but  
this was not charged in the bill particulairely. For the scandalous  
words they were very foule, but seeinge they were supposed to be  
spoken by a person of good note, a man of 400*l* living a yeare and  
a justice of peace, this ought to be the better proved. There are  
two witnesses for the words of the sheeres, but yet they agree not of  
the tyme (there went indeed a paire of sheeres betweene these two

Lord  
Cottington.

religious but they cutt them quite asunder); and there is but a single witnesse a peece for all the rest, and againe if they had been well proved and well layed, he should have referred the most of them to the Lords of the High Commission.

Lord Heath. My LORD HEATH thought Mr. Carrier in his privat opinion guilty of all the offences laid to his charge, but could not sentence him because some were not charged, others not well proved. The words were scandalous to the Church and State, and he leaft them to the High Commission ; yet for some, if they had been proved, he sayd he should have sentenced him. It is said that this was at table, and spoaken by way of argument; it is hard I confesse to call in question for all that is spoaken at table; and yet this should not have been a table argument; but 2 witnesses doe not agree of them, and therfore he doeth not sentence him, howsoever he thinketh his tongue was soe lavish that he spake all. For the oppressions he discharged him for that it was not fully layd in the bill. For the guifter care he doeth not determine the title; but yet it is by consent and free guift. It is well Mr. Carrier hath the tithes, for mines are not titheable by the lawe because they doe not *renovare*. The riott against Buxton is fully proved against Carrier and his wife and others; and these in him being not single offences deserve the greater fines.

Lord Richardson. LORD RICHARDSON thinketh *in foro Conscientia* Mr. Carrier hath miscarried himselfe: he blamed Mr. Jell for making his cuppes a snare, and reporting what was discoursed at his table, and disliked Sir Humfrey Ferris that would dispute with Carrier for his benefice of which he was not capable. This, he said, was according to the insolency of the tymes, people will teach Divines divinity, Judges the lawe, and some will teach States men to governe. That in the bill there are words, and there are actions laid to Mr. Carrier's charge. He disliked Mr. Carrier in all, but should not sentence him in all he said, because some thinges are not certainly layd, other things not certainly proved: the words that there was a double persecution in this land, one against papists and the other

against protestants, and both by the lawes, these were heynous words if they had been proved; never any papist tooke the statute of 1 Elizabeth for 12*d.* a Sunday for a persecuting lawe, and for those other complained of 21 H. 8 and 31 Eliz., they are most excellent lawes, and they conteyne nothing but what is in the Canons. The next words proved by Mr. Emanuell Forde, that 4 sermons a yeare are enough, it seemeth he is of that good minde, and for the other, hang them, lett them goe to the devill, these were to be punished, but he disliked Mr. Borne for not complayninge of these words sooner. For the words of little or noe difference betweene a papist and a protestant, if they had been proved I should have sentenced him, said my Lord Richardson: it may be he read the Catholick Moderator, but not the answer to that which sheweth 26 differences betweene us and the papists, and I am sure (saith my Lord) 20 of those are substantial differences. For purgatory and the rest his Lordshipp leaft them to the High Commission; for Mr. Carrier's deeds they are foule, but yet they must be well proved and well layd, or els not heere to be punished; and for the exactions and oppressions they are not well layd, onely that for the taking of the guifter oare is well layed and proved: but for the fees that are proved he tooke 6*d.* of the plaintiff and 6*d.* of the defendant, this is not charged, therfore *gaudeat de bona fortuna.* But whereas he sate as Barre Master and soe charged, and yet denyeth he is barre Master, if the exaccions had been particularly charged I should have sentenced him for all this. This is like Sir William Brunckers case reported by my Lord Dier. Sr William Bruncker was chosen High Sheriffe of Wiltshire, a commission went to a precise fellow for taking of his oath, who advised him not to take it, but returned the commission and made a false returne that he was sworne: and a bill was afterwards brought heere against the Sheriffe for perjury against his oath, and upon hearing it appeared he was not sworne, and he was fyned 100<sup>l</sup> for not taking the oath, but these exactions being not particularly charged in the bill as they ought to

have been I shall not fyne him, said my Lord Richardson. For the gifter oare if it were due, yet it is not to be taken by violence; he might have been contented with the tythe, for such things are not tytheable by the lawe, they are like those *feræ naturæ*, deere, conies, hares, stone; tythes are *de contingentibus renovantibus* and *accidentibus*, but yet upon the custome he had a decree and a verdict. Therfore for the violent taking of the gifter oare, and for one of the riotts, he sentenced Carrier (but not his wife), and 3 or 4 others of the defend[an]ts for the force and riotte.

S<sup>r</sup> John Cooke.

S<sup>r</sup> JOHN COOKE.—Ministers if they doe well are worthy of double honor, but if they do ill worthy of double punishment. There was a petition against this man to the Counsell, it was attested, it was heard, and the King made acquainted with it, by whose owne directions this cause was brought hither. S<sup>r</sup> John found much fault with Mr. Carrier for his covetousnesse, that he having 400<sup>li</sup> a yeare could not be contented, but must have this lease of 1000<sup>li</sup> a yeare more, and yet use oppressions, and he would make the beggerly knaves to feare him: extortions and open sale of justice, for if they would not pay those fees that he would have them pay, their causes must not goe on. I thinke these as branches of the first charge are charged in the bill, saith S<sup>r</sup> John. It is acknowledged he did cause his deputy Barremasters to receive gifter oare, and that they might please themselves, and take what they would. He thought him guilty of all the words charged: first he knewe not but that there might be a purgatory, and noe difference betweene a papist and a protestant, but a paire of sheeres between them, this is a scandalous speech and full of ignorance and deserueth a great punishment: it may be he readeth not the scriptures, nor the ancient Fathers, the Greeke Church alwayes contested against purgatory, the Pope indeed hath made a very gainefull article of this; or it may be he is rather achaademicall, even disputeing, but houlding nothing: and to say there was equally a persecution of papists and protestants by the lawes of the King-

dome was most scandalous: but the fourth and worst speech, that never well since soe much preaching, and, for the people, hang them, lett us gett what we can out of them, and lett them goe to the devill, he deniyeth that he spake those words; but that he said prayer is also necessary, what puritane will deny this? I think he hateth noe sinne soe much as preaching, and that he is not guilty of it. He saith Mr. Borne is a puritane, but till he prove something to the contrary he shall be taken for a reverend and grave divine.

He saith these were willing witnesses, but that is cleared; that there was a contribution, none it proved, and it is not fitt this man should escape upon pretence of being not charged. He abused his office of Justice of peace, and my Lord Keeper was moved to putt him from the bench; this was not a warneing to him, but afterwards he soe carried himselfe that he was indicted and found guilty for a common barretor and oppressor of his neighbors. That the said Mr. Carrier hath soe miscarried himselfe that not a worse man can be as he thinkes, and for Mr. Jell and the rest of the witnesses they are men of good value and reputation, that Mr. Jell was not a willing witnesse, for he came not but upon threatening of the attachment of the Court.

S<sup>r</sup> THOMAS JARMIN verely thinketh these things are true, but if S<sup>r</sup> Tho. they were proved he should sentence him deepeley, for the words of Jarmin. the pair of sheeres between papists and protestants, I think soe too, and that the sides are soe unequall that I hope Mr. Carrier shall never make them agree; for those ungodly words, Lett us gett what we can out of them, and lett the rogues goe to the devill, there was a common saying, that, trifles in the mouthes of priests were blasphemies, what then if blasphemy it selfe be in their mouthes?

The BISHOP OF WINCHESTER found the violent taking of the Bishop of Winton. gifter oare and one of the riotts, and came to speake of Mr. Carriers words. He suspecteth it is prasentet out of malice; he confessed that at first opening he could not remember a speech of a grave and learned judge of this kingdome after he had heard a sermon preached by

one of this man's name Carrier at Greenwich before King James. Will you anything to Rome, there is a carrier packing thither very shortly. If these were all true against this man I would say he is packing by the way of Rome to hell; but in respect they are not fully proved I cannot sentence him, saith the Bishop; for the double persecution there is but one witnesse of it, and for the 1*s.* a weeke, this is noe persecution, nor those lawes against simony, they are wholesome and good lawes. For the paire of sheeres; if he had medled with St. Austin and the Fathers, and not medled so much with these workes underground, he might have knownen the difference betweene the Church of Rome and us: for my part if that were in the Litany which was in the tyme of King Edward: From Turke and Pope Good Lord deliver us, I should be the first man to say Amen to it: I confesse a pair of sheeres went betweene; but all the botchers in England and Europe shall never make up the rent: when the Church of Rome shall purge herself of detestable idolatry, boudy<sup>a</sup> tenents, superstition, etc., and such like impious opinions, then, and not before, I agree to a reconciliation. For the words of purgatory I fynd much fault (saith the Bishop) with Mr. Boarne for not complayning sooner; the proofes come not home heere, but he must make his purgation in the High Commission; and if they are not in the artieles there preferred, that they be put in additionals.

Bishop of  
London.

The BISHOP OF LONDON saith, I shall not sentence him for the exacton of fees, imbraceryes, and countenanceings of juries, though they are never soe true; yet God forbidd but he should have liberty according to all lawe and the lawe of nature to make his defence, which yet he cannot doe unlesse the charges be particulare, as they are not as it seemeth. Howsoever the taking of the gifter oare is charged and proved, and one of the riotts proved on Mr. Carrier and others. For Carrier's words, he is busy with the state, and busy with the lawe. First, he chargeth persecution upon the State, that this persecution is by lawe upon Papists and Protestants; it is a charge that which way soever the Church turns yet persecution.

<sup>a</sup> bloudy.

Of what religion then is the State of England? Seeing the reverend judges have expressed a great deale of love to the Church give me leave to expresse my love to the lawe, said the Bishop, and soe commended the lawe for 12d. a Sunday; 52s. a yeare is noe persecution: and likewise the lawe for residence which he holdeth a very good lawe; and that with the Spanish Divines he holdeth residence *de jure divino*, but if they erred in anything it was about personall residence; there must be a vertuall residence, viz., all the dueties of residence performed by a sufficient deputy, for there be many cases which warrantably may drawe a carefull minister from his flock, infirmity, necessary businesse, businesse of the State and Church, imployment in controversies, etc. And soe for the Statute against Simony, it is a very good law and conteyneth noe more then is in the Canons of the Church, nor soe much, for there are many cases Simony by the Canon which are not by the Common Lawe.

For this man Carrier when he talks of religion he is in a slowe;<sup>a</sup> surely he is a very indifferent man.<sup>b</sup> I have heard a proverb of two badd men but a paire sheeres betweene them. Is it soe of our religion and Rome's? Looke upon the 39 articles of the Church of England and the Common Prayer booke, the publique expressions wherein our Church differeth from the Church of Rome, and you shall find 16 generall heads wherein the Church of Rome stands at east and north east the quite contrary points of the compasse. A contradiction is the greatest difference; one side is true, thother false; it is true the sheeres have cutt the good cloth from the list, it is not a cutting from list to list, it is true that men on the other side have been too much heated that whereas the difference is greate they pray that it may be greater; here is a great deale of want of charity.

For his purgatory, it is a good and safe opinion for him, there he may make his purgation thereis some molification to be had because this is pardoned, it is soe long since, and by way of argument at table, when, if ever, men are ready to offend, I blame them that make religion table talke, as if they had noe other tyme to

<sup>a</sup> i.e. slough.

<sup>b</sup> A man who makes no difference between the Churches.

spare for it but among their cupps; *inter pocula non philosophandum*: I blame those likewise, as Mr. Boarne especially, that complayned not of this all that while.

For those words of neglect of his calling saying Noe matter for soe much preaching, and Hang them, roagues, let us gett what we can of them and then lett them goe to the Devill. There be 2000 soules that he hath cure of and if they goe to hell through his neglect, he carryeth them thither, and he is not farre off, nay he shall have a deep doome. I cannot yet believe that he should be soe vile and gracelesse as to speake this. For M<sup>r</sup> Boarne and him there is a suit betweene them crosse one against the other, in the High Commission, that Mr. Boarne having a deputation, and not to complaine of this to his ordinary, I cannot hold him excused; and yet I think fitt he should make his purgation for those words, for heere is more then a fame, sayd the Bishop

FALKLAND, WENTWORTH, BRIDGEWATER, but shorte, and DORSETT. Though much cunning hath been used at barre and otherwise yet the Ethiopian cannot be made white: I find hym a wolfe robbing in sheepe's cloathing, given to covetousnesse, rapine, ruine; and I fynd he doeth not preach, and therfore if he cannot read I would not have him saved by his booke.—He hath sinned against the State and against religion in generall charges and particulars, and instead of blessing he curseth his people: I fynd him likewise charged with many oppressions; I think him guilty of all, but shall not sentence him soe, because not proved or not sufficiently alleaged. Unto the Tribe of Levi I beare a good affection, and never better respected any ministry then that which is now, yet one Judas and one Simon Magus amongst the rest, if he had chosen Maries parte and M<sup>r</sup>is Jennet, Marthaes; if had not flayed his flock but fed them, if M<sup>r</sup>is Jennet Carrier had been at home armed with her distaffe and spindle, and not with a knife and a tally in the feilde, this might have been spared; but because men may knowe at what price they may profane God and abuse men, rather

then not to concurre with the highest censure I could wish it had never come heere.

PEMBROKE but little.

ARUNDELL, That this cause was very worthily brought heere, it Arundell had an honourable hearing and tyme was well spent in it. For Carrier that he hath shewed himself a very wicked man both humanelly and divinely, but that the words were very uncertain, and he liketh not with S<sup>r</sup> Hunfry Ferris to challenge M<sup>r</sup> Carrier, nor with M<sup>r</sup> Fell, though he were called yet he owed a great deale to the lawe of hospitality: and that Carrier is not to be commended for his carriage.

LORD PRIVY SEALE saith this cause concerneth the Church, and Privy Seale. Commonwealth ; and the spirituall parte hath been well dilated by the Bishops: the charges against him are for oppression, countenancing of causes, champerty, riotts, injustice, and scandall.—For the facts they are well proved, he is Judge, Justice, Barremaster, and Lord of the Mannor too: for the riotts they are foule, to pull men out by the quarters, etc. for the words some are ill proved, some ill layd; he is very easy to be of any religion; for the words of the paire of sheeres, they are proved by 4 witnesses as I take it; in giving sentence we must take things strongly against the party. There are two witnesses that speake of them directly, and the third is that Parker reproved him: Fye, cosin Carrier, it is not fitt such words should passe from you. 4<sup>ly</sup> the Commissary Boarne; he saith that these are most malicious, scandalous, and seditious words, and saith it is noe hospitality to speake treason nor to conceale treason: and that gentlemen ought not to be discouraged for discovering the truth, or reveling this foule nature.

MY LORD KEEPER saith he will speake last and least seinge the Lord Keeper. cause hath been soe fully opened, the temporall matters by M<sup>r</sup> Secretary Cooke, and the Ecclesiasticall by my Lords the Bishops, soe zealously and clearely shewed that I need say little. M<sup>r</sup> Carrier came into this Court and goeth out as faulty as ever I knew any: his odious words, that of purgatory if they had been proved yet

they were to be sentenced by the Ecclesiasticall Court: for the other as many as are proved they doe extremely well deserve the censure of this Court. For the words that it was never well since soe much preaching was, and for his parishioners, Hang them rogues, lett them goe to the devill, these were most profane speeches, but not to censure him because there is but one cleare witnesse of them. For the words of the paire of sheeres and not a pinne to choose, I thinke under favour this is proved, there are two witnesses of the body of the matter, but they vary of the tyme one saying it was within 5 yeares thother it was within 5 or 6 yeares. For the extortion other then the gifter oare there is noe direct charge; and for Buxtone's riott.

## Sentence

Soe by the vote of the Court, Carrier was fyned 500<sup>li</sup> to the King, to be imprisoned, that he shall be made uncapable of the Barre Masters place, and to that purpose His Majestie to revoke and question his dispensation, and to be imprisoned. M<sup>r</sup>is Carrier was fyned 50<sup>li</sup> to the King, and to be imprisoned. Noton and Wright 100<sup>li</sup> a peece, and Winckfield and Cadman 20<sup>li</sup> a peece, to be paid to the King, and imprisonment.

In Starre Chamber, 3 Feb[ruary] Hill[ary] 7 Car[oli] R[egi].s.

Theophilus Earle of Suffolke plt.

S<sup>r</sup> Richard Greenfield a Baronett defendant.

## Bill.

The Earle of Suffolk complayned by his bill of S<sup>r</sup> Richard Greenfield, but whereas he had been a meanes to procure his Lady, in a just cause, alimony against the said S<sup>r</sup> Richard till the cause

<sup>a</sup> Sir Richard Grenville. See *Clarendon*, viii. 135-6. Lady Grenville had been previously married to a brother of the earl.

were heard in the Ecclesiastical Court, and the said Earle of Suffolk sent a messenger with the order to give Sr Richard notice to pay the said alimony. Wherupon the said Sr Richard brake out in words before the said messenger, and the Lady Greenfield, and others, saying: The Earle of Suffolk is a base Lord and hath dealt basely with me; and sent a message unto him with these reprochfull words: Tell him he is a base Lord and hath used me basely and he shall knowe as much, etc.

The defendant pleaded Not Guilty, and endevoured to excuse Answere himself for not defending himselfe in examining his witnsses to the contrary, and upon the reputation of the witnesses.

This cause came to be heard and sentenced this day: My LORD Sentence. RICHARDSON shewed that the Earle of Suffolk was a noble Lord and a man of great office and trust and honorable in his birth and actions and not base: these words were very foule and dishonorable: it is a tainting of all honor, the olde law was to cutt off the tongues of such men, all honor is founded in the King: this is against the statutes of Westminster, 1, 34, and 12 R[ichard] 2, 30, and Booke of Assizes. Lord Cheife Baron brought his writt against a Lady that called him traytor, and his declaration was that it was, in despite *le Roy*.

THE BISHOP OF WINCHESTER said that Sir Richard Greenfeild had touched the highest bloud in the kingdome, that his actions are according to his degree and parentage, and related what he heard the Lord Treasurer Burleigh say long agoe, upon the comming forth of Dollman's booke, that he would boldly justify the house of Suffolke from the Earles of Norfolke to be descended of Edward the 4, the offices of my Lord of Suffolke were greate, Captaine of the pensioners, and Lord Gardein of the Cinque Portes. Sr Richard Greenfield is a souldier, and a coronell; a man of good deserts otherwise. But the tongue should not be the souldier's weapon, said the BISHOP OF LONDON.

Soe by the vote of the Court Sr Richard Greenfeeld was fined

4000*l* to the king, and adjudged to pay 4,000*l* dammages to the said Earle of Suffolke, and to be imprisoned during the king's pleasure.

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A cause of contempt by one Mr Cotton, defendant in a cause in this Court against one Mr Tuke, whose Sonne was heere plaintiff, and against one Noble and his wife, Butler and Edmonds and others defendants, which the said Mr. Cotton grounded upon the affidavit of one Stevens, and an Irish footboy.

There was a snit in the Ecclesiasticall Court by the said Mr Tuke the sonne, touching a precontract against Mr Cotton and his wife, the sole daughter and heire of Sr John Stanhopp, which was sentenced against Mr Tuke, and an appeale therupon to the Delegates, where it resteth undecided.

The said Mr. Tuke the younger brought his bill heere against the said Mr Cotton, Kilborne, Noble and his wife, Butler, and Edmonds, defendants, for perjury, subornation of perjury, committed in the Ecclesiasticall Court.

The Affidavit and proofes. The said affidavit was to this purpose; that Mr Tuke the father had combyned and practised with Noble and his wife, and the said Butler, three of the defendants, to make what answer the said Mr Tuke the father pleased to his Sonne's said Bill, and therein to charge the said Mr Cotton with subornation of perjury by themselves committed in the said suit; that Mr Tuke got Counsell's hand to their said answer, and gave them money, and gave them their dyet fortnight together, and payd the charges and relieved and gave money unto the said Butler, and kept him in prison in

Newgate, till he would make such answeres as aforesaid, that he was at last willing, and M<sup>r</sup> Tuke the elder ingrossed the said Butler's answeres with his own hand, and gott a Councillor's hand thereunto.

M<sup>r</sup> Tuke made his defence that this was a plott on the other side by M<sup>r</sup> Cotton to take away his Sonne's testimony from him and to prejudicate his cause in this Court; and it was moved by him that Noble and his wife might be read as witnesses to this; but it was much stood against, and ordered by the Court that they should not; for heere by their affidavit they were accused as well as M<sup>r</sup> Tuke, and they are not to be heard to cleare themselves by way of witnessing for themselves or another. That this practise was not complained of for the space of two yeaeres after it was supposed to be donne. For the affidavit men: one of them is an Irish runne away footman, and the other, Stevens, is a common barrettor and a man of very evill fame and behaviour. Crowne, the Sollicitor, who is left as a man on both sides, he chargeth not himselfe and therefore a witnesse not to be beleived.

It was moved by my LORD RICHARDSON that this was not to be Sentence. sentenced till the cause it selfe in this Court came to be heard, for the wrong els would fall upon M<sup>r</sup> Tuke the younger, whose cause it is, and he is not called heere. LORD PRIVY SEALE answered that it stands with the presidents of the Court to sentence an interuenient practise in a cause depending before the hearing.

Soe the vote of the Court was that it should be presently sentenced: and M<sup>r</sup> Tuke the elder was fyned 100*l* for this contempt, and to be imprisoned and disabled in their testimony for ever.

In the Starre Chamber, 20<sup>o</sup> Aprilis, 1632, Annoque R[egni] R[egis] Caroli octavo.

|        |   |   |
|--------|---|---|
| Before | Thomas, Lord Coventry, Lord Keeper of the Great Seal.<br>Henry, Earle of Manchester, Lord Keeper of the Privy Seal.<br>Henry, Earl of Danby.<br>Sir Thomas Richardson, K[nigh]t, Lord Cheife Justice of<br>K[ing's] Bench.<br>Sir Robert Heath, Knight, Lord Cheife Justice of Common<br>Bench. | } |
|        | The King's<br>Counsell<br>there.  |   |

King's Atturney - - - - - Plaintiff.

Theodore Kelly, gentleman, *ore tenus* - Defendant.

M<sup>r</sup> Atturney shewed that this Theodore Kelly had written a letter to Sir Arthur Gorge, Knight, tending to a challenge, and produced the letter, which was read, vizi. that he was as good a gentleman as himselfe, and had learned soe much att Cambridge that Sir Arthur was to expect noe other from him then he promised to doe vnto him, which was to cudgell him, &c. And soe he rested, Theodore Kelly.

His examinacion. That in Lent last there being a play to be acted att Trinity Colledge in Cambrige, before the King, there was a great preasse of people, which thrust him this Examinate vpon Sir Arthur Gorge, that he turned to this Examinate and said he would cudgell him, this Deponent, or that he deserved to be cudgelled. The said Sir Arthur ledd a lady or gentlewoman by the arme. This Examinate knew him not, but afterwardes enquired his name: He confesseth he wrote the said letter to Sir Arthur Gorge, &c.

Mr. Atturney. M<sup>r</sup> Atturney saieth that this is a provocation to a challenge, an offence against severall proclamacions; that this is not a new law,

but a confirmation of the ould: 11 H. IV. Parliament Roll.<sup>a</sup> There were manie accusacions against Hugh Erswické and his sword-man, that they, with others (they are there named Venables and Delves, Davenport, Swinerton, and Edgerton), came into Derbyshire out of Cheshire, and they gave out they came to doe dishonour to A. B. and all his complices, and made a Proclamation that if A. B. would tender himselfe to the single combatt with Erswické, they would medle noe further. This was held a great offence, and Trin. 11 H. IV. *rotulo* 11<sup>b</sup>, they plead the King's pardon, which sheweth it was an enormous trespassse.

This man professeth himselfe to be a souldier; but if a souldier shall challenge another iu the campe, he knoweth this is capitall: 31 E. I. Pleas of the Parliament between Segrave and Cromwell.<sup>b</sup> Segrave challenged Cromwell, and they must goe into France to fight. For this Segrave was to suffer paines of death; his fault was aggravated, for that he deserted the King in his warres, and went into France to make a foraigne Prince judge of his actions. Indeed his second J. S. was acquitted, for that it appeared he knew not of the combatt before he came there. This Theodore Kelly pretendes himselfe to be a gentleman, but he served a meane gentleman in Warwickshire. He saith he was a souldier, and served the King of Sweden; his passe is from before Magdenburgh. He hath been ever since December comminge over; he landed att Dover

<sup>c</sup> day of March. He is iealous of his honour. Yt seemeth he was soe rude that Sir Arthur Gorge thought him worthy to be cudgelled, but he will cudgell him for his opinion. He that takes power to cudgell another, must take power to kill. Plainely this is a provocation to a single combatt, which is a most perillous thinge. It hath in it apparent danger of both their soules and bodyes. This man must have satisfaction, and what that is, he himselfe must be judge, and this is plainly against the lawe.

<sup>a</sup> Rot. Parl. iii. 630, 632 (B).

<sup>b</sup> Rot. Parl. i. 172, 181 (B).

<sup>c</sup> Blank in MS.

Kelly.

Kelly beinge demanded what he saith to this, He saith he is a scouldier, and knew not the lawes. He knew not of his comminge hither in this manner. He saith, for that obiection of his being longe in comminge over, he saith thas he was frozen up att<sup>a</sup>

And for his offence committed in sendinge in this letter, he humblie submitted to the censure of the Court. Being asked what he would have done if he had mett with Sir Arthur Gorge, he saith, he would have tould him he was not soe good as his word, for saying he would cudgell him.

Sentence.

Soe the Court proceeded to sentence, and declared that single combattes are very odious, and they are not allowed by any Christian State, and that nothinge tendinge to such duells is to be allowed. Men are not to be their owne revengers. The Marshall and Constable of England are judges of reparacion of honour, as hath been seen in very good practise of late.<sup>b</sup> That this was a fault in Kelly against the lawe and many proclamacions, and an edict sett forth by King James,<sup>c</sup> and it is noe new case. That it agreed with Markham's case, who was fynded in this Court; Jarvis Markham and my Lord Darcy of ye North. It seemeth my Lord Darcy crossed Markham's doggs in huntinge, and he gave forth words, whomsoever should topp his dogges he would be revenged of him. This was held a provocation to a challenge, and punished heere. Kelly was therefore adiudged to pay 200*l* fine to the King, to be ymprisoned duringe the Kinges pleasure, to be bound to the good behaviour, and to make recognition of his fault. Lord Privy Seale and the Lord Keeper found great fault with his long ruffian-like haire, and would have topped him if the vote of the Court had been for it. Lord Keeper wished the Governours of the Innes of

<sup>a</sup> Blank in MS.

<sup>b</sup> Perhaps referring to the preliminaries of the single combat claimed by Lord Reay and David Ramsay.

<sup>c</sup> The Star Chamber decree against duelling Jan. 26, 1614, is printed in Spedding's *Letters and Life of Bacon*, iv. 409.

Court to reforme it in the gentlemen, and wished that other Judges would ioyne with him, that if a Barrester come with longe haire, he shall not be heard.

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Hatband-makers against Hatband-makers ; about deceipt in their trade.

A. B. of London, Cittizen and Hatband-maker, brought his bill Bill. against Bunbury, Knight, Wood, Simons, Day, Pelham, and others, shewing that whereas he and divers others have a long while main-teyned themselves and their famylies in good fashion, by makinge silver and gould hatbands, the Defendantes, to gaine the sole trade to themselves, and to undoe the complaynant and others, and to defraude the Kinges Subjectes, have made manie thousand dozens of hatbands of copper and other base mettalls, and of copper and guilt oes<sup>a</sup> and purles, and sould them at an under price for good silver and gouid bands ; for which offence of theirs they were con-vented before the Lord Maior at the Sessions of the Peace held in the Guildhall, London, and an Indictment preferred against them by the said Pelham, and he compounded with them for twelve poundes. For punishment of which offence, and undue composition, and the repaire of his dammages, the Plaintiffe bringeth his Bill.

The Defendantes plead not guilty, yet some of them, uppon their Answere. answeres to interrogatoryes on which they were examined, did confess the offence about the hatbands, but for the undue composition, it appeared that the Bill was onlie drawne, not ingrossed, nor preferred, and that the Court gave them leave to compound all their differences, which was held on erroneous direction of the Court. It was objected by M<sup>r</sup> Recorder for y<sup>e</sup> Defendants, that the offence

<sup>a</sup> i.e. Small rings.

was not charged npon the Defendants (who made Confession in their Examination) in the bill, but it was resolved by the Court that, though it be not well chardged, yet if it be confesed, this Court hath used to proceed to Sentence, for this Court doth sentence men *ore tenus*, therefore will the Court alsoe sentence these Defendants upon their owne Confession.

## Sentence.

Therefore the said Defendants were, according to the natures and quantytes of their offences, sentenced and adjudged to pay, some 20*l* fine a peece, others 40*l* a peece, and an other 50*l* fine and ymprisonment; but noe dammage was given to the playntiffe, onlie he was to have his costs; and because fraude is a common hurt to the weale publique, and that, in all manufactures, from the great commodity, cloath, to the meanest, fraud is to much used, tendinge to the destruction of the whole trade of the kingdome, for example sake it was ordered, that this Decree should be carefullie drawnen up, and to be read at the next generall meetinge of the Liveries of every Companie in London, att the Guyldhall; that men might knowe such offences are to be punished in this Court, and feare to offend in the like kinde.

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In Camera Stellata, 25<sup>o</sup> Aprilis, 1632, Anno R[egni] R[egis] Caroli octavo.

## Coram

Thoma, Domino Coventry, D[omi]no C[ustode] M[agni] S[igilli].  
Ric[ardo] Archiepi[scopo] Ebor[acensi].

Henrico, Com[ite] Manchester, D[omi]no C[ustode] P[rivati]  
S[igilli].

Henrico, Com[ite] Danby.

Thoma Richardson, M[ilitia] D[omi]no Cap[itali] Justic[iario]  
B[anci] R[egis].

Rob[er]to Heath, Mil[ite] D[omi]no Capit[ali] Justic[iario] de  
B[anco] C[ommuni].

Domini Regis Concilii ibidem.

King's Attorney Generall - - - Plaintiff.

James Casen, one of the Attorneys of  
the Court of Kings Bench, and  
Gunnis and Walton, Common Bay-  
liffes - - - - - Defendants.

Bierley, of Councell with the King, opened the bill and shewed Bill.  
that this suite was brought against the Defendantes by direction of  
the Court ; that heere were manie charges in this Bill.

1. That John Ward, 22° Jac[obi] was bound in a bond of 100*l* Charge.  
to Arminger and Goddard, to stand to an award. Arminger brought  
the bond to Casen to be putt in suit ; he proceedeth on the bond ;  
Goddard forbiddeth him to proceed any further ; he refuseth to  
desist, sayinge he was not sett on work by him, and would not be  
forbidden by him ; a judgement was obteyned of 100*l* dammages,  
whereas in truth ther was but 5*l* or 6*l* reall dammage done. That  
Casen agreed with the plaintiffs and bought this Judgement. That  
he tooke forth Execution of *Fieri facias*, and Walton the Bayliffe  
leavyed of the poore mans goods 77*l* att Robinhood's peniworths,  
61*l* was brought to Casen, and Goddard had for his parte 5*l*. The  
sheriffe demandes the goodes, or the money leavyed, or els will not  
returne the Writt. Casen getteth the Sherriffe to be amerced 10*l*  
though the money were in his handes. Casen tooke forth an *Elegit*  
for the remayninge 23*l*, dammage and penaltie, and thereby ex-  
tended the moitie of the poore mans lands ; the poore man is forced  
to sell some trees to make money, the Vendee cannott get leave to  
cutt these trees by any meanes, but the partie must sell the trees to  
him, soe he was forced to sell Casen 50*l* worth of trees for 15*l*.

The second Charge was an oppression in suinge for a cow in y<sup>e</sup>  
name of one Page, who tould him he would not vouch the suit.

3<sup>ly</sup>. Another oppression upon one Jenner who came to borrow  
money of Casen, he would not lend him any unlesse he would take a  
Mare of 10*l*, not worth 8*l*, and then he would lend him 10*l* more, and

soe he did, and gave him bond with sureties for 20<sup>l</sup>; the money was payeable a moneth after, and the day of payment falleth out to be upon Sunday. The Obligor, knowinge that Casen was an hard man, and used not to receive money on Sundaies, gott a Freind to tender him the money upon Satterday; then he had not the bond about him and would not receive it. Monday it was againe tendred unto him, then he refused to take it, and arrested Jenner att the Liberty of St. Ethelberte in the Countie of Suffolke. The said Jenner and the Bayliffes Walton and Gunnis were att supper, the Bayliffe of the Liberty grauntes his warrant to his under bayliffes to arrest Jenner uppon an other action. The underbayliffes come into the roome, and aske them if they had arrested Jenner; they would not tell them, nor show their warrant, whereupon the [under] bayliffes tooke Jenner and arrested him, and put him in the gaole. The bayliffe sent to them saying e, if they had anything against Jenner, that he should be forth comminge. Noe, they would take their course. Casen returneth a rescusse upon 5 or 6 of the said underbayliffes and the Gaoler. They were all fyned to the King. He bringeth his action severally against all the supposed rescusser; from some he wrestes 4<sup>l</sup>, from others 5<sup>l</sup>, by composition; the rest doe not appeare. He gettes the Sheriffes bonds and putteth them in suit without the lycence of the Sheriffe, in y<sup>e</sup> Sheriffes name, and soe gayneth other compositions.

4<sup>ly</sup>. He getteth a lease of the Parsonage of \* for a yeare, and of the gleab land, and he brought divers actions upon his priviledge for trespasses, required speciall bayle, and gott 16s. and 20s. composition for trespasses not worth 4d. a peece.

5<sup>ly</sup>. A poore man owed Casen 12s., his Surety payed 16s., and yet the poore man was arrested for it, and for 24s. he was discharged, and gave him back two pence. 6<sup>ly</sup> for Forgery of the Sheriffes warrantes. 1. Having procured a warrant for the arrestinge of A. L., spinster, he underwritt the said warrant, betwecn the wrytinge and the seale,

\* Blank in MS.

*mando etiam quod capias Johannem Blowfeild, &c.,* uppon which the said Blowfeild was arrested. 2<sup>ly</sup>, the forgery of a Warrant whereupon Yorkes wife was arrested; he tooke the first warrant, which was from the Sheriffe and burned it, and presentlie made an other upon which Yorkes wife was arrested, and then procures Warrantes by the dozens with blankes for names of plaintiff and defendant, cause of action, and the date, nay, gettes blank papers with seales to write what he pleaseth in them.

7<sup>ly</sup>. For misdemeanours in amercinge the Sheriffe unduly.

8<sup>ly</sup>. For suinge one upon a bond of 200*l* in Common pleas by *Exigent*, and in Kinges Bench by *Latitat*, and tooke two fynes and Fees in both actions.

9<sup>ly</sup>. He brought an action for money due unto him against one Dennis administratrix. She pleades *plene adminstravit*. It was shewed unto him by her Attorney, who entreated him to accept of the Plea without her Councells hand. After he had read it he would have it fyld where it ought to be and under hand. The Attorney gott a Councelles Hand, and fyld the same with the Clark of the pleas, yet the said Casen entred Judgement by *nihil dicit*, tooke forth execution, and thereupon her goodes were taken to the very cloathes of her back.

10<sup>ly</sup>. Jenner borrowed twentie pounds of Casen, but could not have it unles he would take a mare of 10*l* not worth 6*l*, for 10*l* of it. He came to borrowe 20*l* more; he cannott have it unlesse he would take a hogge and certeine beanes in parte, &c. Noe, Jenner refused, and would rather pay in the first 20*l*, but then his Surety is arrested, and shall not be discharged unles he can gett a Mare of his Brothers for 4*l*, which was worth 8*l*.

11<sup>ly</sup>. Casen was charged that whereas Sir Robert Hitcham, knight, his Maiesties Serieant at Lawe, and one of the Justices of the peace in the Countie of Suffolke, sitting upon the Bench with others his Majesties Justices of peace, there was called [by] one Finch, son in law to Casen, and was indicted for refusinge the office of Constable in a towne in Suffolk, that Casen in opposition to the government of his Majestie used then and there opprobrious words to the said Sir Robert

Hitcham, vitz. "Sir Robert, you are not a fit man to be a Judge in this cause; you are partiall!" and desired the rest of the Justices to give him leave to direct his speech to them and not to the said Sir Robert Hitcham, for that, in this Cause, he would be judge, witnes, and partie. And then brought actions against the serieant, and would have had the Sheriffe of Middlesex to arrest M<sup>r</sup> Serieant in Westminster Hall, who refused to arrest him, but undertooke he should appeare. He rayles upon the Sheriffe, and not content with that, delivereth another writt to the Bayliffe of S<sup>t</sup> Ethelbertes against the Serieant, who answered him as the Sheriffe of Middlesex had done. The Serieant appeared, and he said Casen did not proceed, but was non suit. And he practised with the Serieantes Chambermaide to gett him the said Articles which the Serieant offered against the said Casen at the Sessions, and promised to reward her and never to forgett her kindnes. And by her mother's perswasions she did gett the articles, which she found in her master's chamber windowe, and delivered them to the said Casen; and then he would have perswaded her to say, that the said Serieant contryved the same, but she refused to say soe, for she knew her Master's hand well, and this was not his wrytinge, &c.

12. The Charges against Gunnis and Walton the Bayliffes were for their abuses committed in their arresting men, and compellinge them to goe to Casen, or els they would beat their prisoners, and dragge them towards y<sup>e</sup> common goale, and Walton kept others in his custody upon pretence of utlaries and tooke 5<sup>li</sup> of one for *Supersedeas* money, Wheras ther was noe utlarye, &c. And they were further chargd with oppressions, &c. And Gunnis was charged that whereas there was a tryall by *Nisi prius* brought downe to Bury S<sup>t</sup> Edmondes for a trespass in cuttinge downe of wood, Gunnis threatned the plaintiffs witnesses that they would be clapt by the heels upon my Lord Cheife Justice warrant unlesse they would be gone out of towne, which if they would he would procure them 10<sup>s</sup>, and he gott them to an Alehouse that night, and next morninge brought them 2<sup>s</sup> 6<sup>d</sup> a peece, and promised to pay them

each soe much more at next meetinge, & brought them goinge out of towne, and the Cause was afterwardes called and the plaintiff nonsuit for want of his witnesses, and afterwardes, upon affidavit in Court, Judgment was stayed and the Costes taken off bicause of the said practise.

13<sup>ly</sup>. The said Casen was charged that he, being Attorney for the Defendant in an action of debt upon a bond, afterwardes by ambodexterity,<sup>a</sup> hvinge received a Fee of the plaintiff tooke forth executation against the Defendant, there being a reteynner of him before by y<sup>e</sup> defendant, and a Fee payd him, and soe he was am ambodexter.

The Defendant Casen's Councell opened his answere. He gives Answere. to these multitude of Chardges, to some particuler answeres, to others a general answere. First, for that matter between Page and Sollers, about the Cowe, Arminger, who sould y<sup>e</sup> Cow, and was to vouch the sale, had conference with Page, and Arminger gave the Defendant Casen authority, in Page's name, to sue Sollers, and, though at one tyme he dissented, yet afterwards he consented therunto. 2. To that of the rescusse of Jenner, the Defendant Casen saith it was a rescusse plainly, that they were outlawed thereupon and fined, and he brought his action against them as he might lawfullie doe, and the Sheriffes bondes were putt in suite against some of them, but at the undersheriffes direction he surceased the suites. 3. To that businesse of suinge in two Courtes for one debt; it is true he did cause the partie to be sued to the *Exigent*, and after, when he sawe an opportunity to arrest him, this defendant, for his Clyentes advantadge, it is true upon a *Latitat*, did cause him to be arrested. 4. For that suite against Clement Dennis the administratrix, he saith it was a due Judgment obteyned bicause y<sup>e</sup> plea was not put in in tyme: and it is some dishonour cast upon the Court of King's Bench (as this Defendant conceiveth) to affirme that an Atturney may gett what Judgement, and when, he pleaseth. To the businesse of the Ambodextry, he says that it is true he was for the Defendant, that the Judgement was by consent, that after

<sup>a</sup> i. e. taking both sides.

Judgment he conceiveth the Attorney's power ceaseth, and soe he might lawfullie be for the plaintiff, &c. which he submitteth to the Judgement of this honourable Courte. And to all other the matters and thinges chardged upon this defendant he pleadeth the Kinges Majesties generall and free pardon, and humbly prayeth it may be allowed.

(There being noe Councell reteyned that appeared for the other two defendantes, their answeres were read, Not guilty.)

7. Casen's awnswere conteyned one other particulare before not mencioned, vizi. touching the affront supposed to be given to Seriente Hitcham in open Sessions, he saith it is true, Finch was bound over to appeare att the Sessions att Woodbridge, by the plaintiff, that his Recognizance was called the first beginninge of the Sessions, and, Finch not appearinge, Sir Robert Hitcham caused a default to be entred, the Defendant desired some respitt might be given for his appearance afterwards; sometimes sittinge the Court, the plaintiff harshly asked Casen, what he had to doe in this cause? He againe desireth Sir Robert Hitcham to forbeare medlinge in the Cause, because of suites and grudges then being betweene the said Finch and Sir Robert, and betweene Sir Robert and the Defendant Casen himselfe, and it is true, humbly desireth that the rest of the Justices would heare him, Sir Robert presentlie affirmes in these wordes, "I may and wilbe Judge in this cause." Casen the Defendant was in the face of the Country committed to the goale, there he remayned duringe the Sessions, and before he could be released he entred into bond with two Suretyes in 100*l* a peice for his appearance att the next Sessions. And that at the next Sessions it his true he spake these wordes, that Sir Robert Hitcham was in the cause afore mencioned Judge, witnes, and partie; not that the defendant or his Councell thinck these words can every way be iustifyed, yet these were the provocations, and more were added, vizi. his pulling out of his pocket the scandalous articles against the defendant, and causinge them to be read publickly in the Sessions, for which Sir Robert had been formerlie

sentenced by this Court upon the Defendantes bill. That Mr. Serieant hath brought his action at Lawe upon the scandalous wordes aforesaid,—“ Judge, Witnes, and Partie:” that the defendant hath pleaded Justification; that the plaintiff demurred in lawe upon the insufficiency of the plea, that the defendant hath ioyned in the demurrer, that the same demurrer hath been on both sides often argued, and now depends readie for the Judgement of y<sup>e</sup> Court wherein it is, vitz. the common place, and therefore noe reason that Sir Robert Hitcham should seeke to recover dammages in two Courtes for one offence, &c.

After the bill and answeres opened the Kinges Councell spake, S<sup>r</sup> John Finch. and first, Sir John Finch, who shewed that upon hearing of the cause at Casen's suit about 12 monethes since, the Court directed this suit upon the articles that were then in question. Those articles were preferred to the late King James, and then againe presented to Sir Robert Hitcham the morninge he went unto the Sessions, that upon Casens provokinge him with high wordes he did retorte upon him, and wished him to be quiett, for that he had great Complaintes made against him which he had received but that morninge, and he had the articles in his pockett. Casen replyed that he knew Sir Robert's malice was soe great towrdes him that if he had anie such articles against him, he would surelie produce them, upon which further provocation, Sir Robert did produce the said articles, and they were read publiquely by y<sup>e</sup> Clarke of the Peace, or his man. It is true Mr. Casen desired to be tryed upon them, but the Justices answered that it would take up too much tyme, and therefore did respitt the same till some fitter tyme. It is trne the Court upon hearinge that Cause did not commend Sir Robert Hitcham for the manner of divulginge these articles, yet thought good to direct this bill upon the articles. He shewed, further, the natures of his offences, his familiarity with the undersheriffe, his foringe of warrantes, his oppresions, vexations, and multiplyinge of suites, and briefley ranne over all the matters comprised in the Bill.

Mr. Attorney-General.

Mr. ATTURNEY-GENERAL began with the great matter complayned of. Sir Robert Hitcham and others sate in the Sessions, and they sate by the Kinge Commission. Mr. Casen excepteth against the Judges and makes them like arbitrators. This was in a businesse wherein Casen's sonne-in-law, one Finch, was indicted and afterwards fyned, vизt. for refusing the office of a Constable, 3*li* 6*s* 8*d*. Mr. Casen was soe bould as to say to Sir Robert Hitcham that he bore malice to the partie, that malice was noe good Judge, he would have him therefore forbeare, that he would be Judge, witnes, and partie in it, and afterwardes affirmed he was soe. Mr. ATTORNEY mentions 2 or 3 presidentes, the first was of one Stephen Cotten for sayinge that the Judge favoured one partie more then an other, 21 E. I.; and 33 E. I., in the Parliament Roll (13) one for abusinge a Judge, which he did (as the Roll saith) *verbis grossis et acerbis*, was adiudged to goe about Westminster Hall in his night capp, doublett, and hoes: and urged that this being at the Sessions of the Peace was of very ill example, that men would in tyme be soe bould as to upbraide the Judges of Assize, nay the Judges in Westminster Hall, and therfore this cause very worthy the censure of this Court, &c.

Proofes..

Then the Kinges Councell entred upon their proofes, and the first thinge offered in prove was that of the suit by Arminger and Goddard against John Walton, upon a bond of 100*l* to stand to an award, upon which a Judgment was had; for prove whereof was read the defendant Casen's owne deposition upon Interrogatory, wherein he confessed that he sued forth execution, vизt. a *fieri facias* to the Sheriff of Suffolk, that therupon was levyed of Walton's goodes, 78*l* 18*s* 8*d*. He denyeth that he bought the execution, but he saith he bought soe manie of the goodes of the Sheriffes Bailiffes as came to 69*l* 18*s* 8*d*, and that Arminger, one of the plaintiffs, bought the rest, which came to 9*l*; that they payd the full rate for the goods as they were worth. He confesseth further, that he tooke forth an *Elegit* for the rest of the Judgment, vизt., for about 20*l*, for which the moity of the said Walton's

landes was extended upon the said *Elegit*. He confesseth the said 78<sup>li</sup> 18<sup>s</sup> 8<sup>d</sup> were left in his handes by the Bayliffes, and that God-dard had 5<sup>li</sup> for his part, and that the said moitie by assignement was in his possession. He confesseth he bought the trees of Dun-nington, and that they were worth 20<sup>li</sup>, and forbeareth to answere his refusing to lett him come upon the ground, because it was not chardged in the bill. He confesseth that he brought the said action of sclander for the said Walton's callinge him extortioner, and recovered a Judgment by default of 18<sup>li</sup> costes and dammage, and that he hath the moitie of the residue of the said Walton's lands in execution upon an *Elegit* for the same. It was then shewed that the first breach of the bond for performance of the award was but of the value of 5<sup>li</sup>, but of this there was no prooфе; and God-dardes forbiddinge of Casen to goe forward in the suit was not much insisted on.

2. The second thinge offered in prooфе was his suinge of one Sollers att the suit of Page without Page's consent. This was offered to be proved by Sollers himselfe, who was excepted against by Mr. Hudson for a non-competent witnesse, because he was the partie greived. Mr. Bierley shewed that in a suite by the Kinges Attorney against one Roe, for abuses about billettinge of Souldiers, for takinge of a brybe to excuse some and layinge it upon others less able, the partie greived himselfe and his wife were both heard as witnesses. Whereupon Sollers testymony was read, that an action of Trover for a cow was brought against him, att the suit of Page, contrary to his expresse forbiddinge of the suit, &c.

3. The third thinge offered in prooфе was the oppression of Jenner, and divers witnesses, and y<sup>e</sup> partie himselfe, were reade; and it appeared when he borrowed the money he was forced to take a Mare for 10<sup>li</sup> of y<sup>e</sup> 20<sup>li</sup>, not worth 8<sup>li</sup>, and that the money was to be paied upon a Sunday; that it was tendered upon Satterday and Monday, that an arrest was made upon Jenner; that the Officers of the Bayliffe of the Liberty of St Ethelbertes tooke the said Jenner upon a common proces from Walton and Gunnis, the other de-

fendantes refusinge to shew their warrant or to tell them whether the partie were arrested by them or noe; that a rescusse was retornd upon the underbayliffes and against the Goaler, upon which they were all, vitz. 6 or 7 rescussers, fyned; he alsoe brought his severall actions of rescusse against every one of them; some compound with him, others doe not appeare upon y<sup>e</sup> arrest, he getteth the sheriffes bondes for thcir appearance of one of the under sheriffes clarke, and puttes them in suit against the parties and their sureties; and soe, out of one cause ill begunne, raysed 20 severall actions: and they endeavoured to prove against him that, under colour of religion, not to have money payd him on the Sabbath day, and not to take usury, he oppressth men, &c.

For the close of this dayes worke was read a strange deposition of one of y<sup>e</sup> witnesses on the kinges Attorney's part of wordes used by Walton the Bayliffe, or Gunnis, and that they were very profane drinking and swearinge companions; that one of them dranke an health to the divell; that one of them said he never failed his little master when it came to swearinge (meaninge the said Casen), and that if it came to lending of oathes, his litle Master need not feare to prove anie action against M<sup>r</sup> Serieant; that he carried the Cause in the Guildhall by his testimony against great Counsell, and that his Little Master was worth 6,000<sup>l</sup>, and if he should be putt besides his practyse he would be a man in the world, and able to requite them that stood for him; and soe went on, strangely makinge some comparisons of my Lord Cooke, whereatt the Kings Councell made a stoppe of the Deposition, saying that ther was noe Interrogatorie to leade him, which the Lord Keeper hearing, bidd the Attorney read noe more. And soe the Court breake up, leavinge the rest of the cause till the next day.

In the Starre Chamber, 27<sup>o</sup> Aprilis, Pasche, 8<sup>o</sup> Caroli.

Before those of the Kinges Councell that were in Court at the beginning of Casens cause.

This day the Kinges Councell at the barre urged manie proofes of the severall chardges against Casen, and in particulare for takinge a lease of the gleab and teyths of the vicar, one Mr. Lownes, and tooke forth his priviledge against divers for trespasses, and made some compound and pay 14<sup>s</sup> and some 18<sup>s</sup>, for trespass not worth 4<sup>d</sup>, and in his examination he confessed he tooke 15<sup>s</sup> for a trespass.

It was alsoe shewed and proved that he sued one A. B. at the suit of John Finch to the *Exigent* upon debt, that he afterwarde, seeing an opportunitie to arrest the partie, tooke forth a *Latitat* and arrested him, and the partie payed costes in both Courtes. This he alsoe confessed in his examinations upon interrogatories.

Then were read divers witnesses of his evill fame, and that he useth to vexe men upon his priviledge, requiring speciall bayle, &c.

The matter of Clement Dennis the Administratrix was also insisted upon in proove, and it was proved by James Witt, her Attorney, how that her plea of *plene administravit* was showed to Casen, and he desired him to admitt it without Councelles hand, which Casen afterwardes refused, and badd him file it in due manner; and in meane while caused iudgement (by *nihil dicit*) to be entred.

The forgerie of the warrantes was likewise much stood on, but not soe well proved.

And for his Ambodextry, there was an action of debt brought by John Finch against John Strutton; Casen appeared for the defendant, and confesseth the judgement; that Casen did afterwardes take forth execution against the defendant for Finch, and

the partie was in execution, &c. besides manie other things proved upon other the particular chardges of the bill against Casen.

Then was offered the prooфе against Walton. One William Church deposeth that Walton arrested Bird, he offered bayle, Walton would have him goe to his master, Casen; Bird refused, but tendered bayle, whereupon Walton beat the prisoner, haleing and dragginge him towardes the common goale, and otherwise misused him. And at an other time, in the same manner, the said Walton misused the said Bird upon an arrest, and the said Church, being a constable, wished him to keepe the peace, and presentlie he swore he would returne a rescusse against him.

It was proved against Gunnis that he arrested Richard Jeffryes in execution, and after he was dischardged he kept him, upon supposed outlaries, till he would lay downe 5*l* for supersedeas-money, 20*s* for his paynes, and 20*s* for his dyett, & afterwardes found that there was noe such outlary.

An action for trespass for carryinge away of wood was brought by Spooner against B. C. It came by *nisi prius* to be tryed at Bury St Edmonds. Gunnis insinuated into the plaintiffs witnesses and kept them out of the way. He threatned them, if they gott not themselves out of towne they would be arrested upon my Lord Cheife Justices warrant, and gave them money to be gone, 4*s* to one and 2*s* 6*d* to the other, and brought them out of towne, and after tould them he would warrant them for a fillip; and when they were gone away Spooner was non suit for want of his witnesses. That the Kinges Bench afterwardes discharged the costes upon the nonsuit, on affidavit made of the said practise, and awarded an attachment against Gunnis. And afterwardes he dealt with Casen to draw up a note for the witnesses to sett their handes to, testifyinge that they received the money aforesaid not to hire them to withdraw themselves, but in satisfacion of some debt due, but they never sett to their handes.

Serieant Crawley of Counsell with Casen shewed that Casen hath been an Atturney in the Kinges Bench thirty yeares, that his

adversaries have begunne to pick up matters against him ever since Serieant he was an attorney's boy; the articles whereon this suit was begunne were at first eight, they have left out some of the greatest, and mention not a word of them in the bill. The first thing the Serieant gave answere unto was that of Arminger's and Goddard's Judgement; the bill chargeth Casen that he brought their tytle to the judgement, that the bond was forfeited but to the value of 5<sup>l</sup>; but judgement was given, and it is to be presumed nothinge could be alleadged either in law or equity to the contrary. Casen denyeth that he brought the iudgement. But the Court obiected he bought the goods, and the money was delivered to him; Shew that he payd it over to his Clyentes, or else we shall thinck it stickes with him still; and soe he brought the judgement.

The Serieant mentioned an acquittance that Casen had, but it was neglected to be proved before, and he had none now that could witnes it, besides it was against the course of the Court. Mr Serieant went on shewing that the goodes were indifferently prized, that they were offered first to Daniell Walton's wife, if she could procure soe much money, that the greatest part of the goods were sould to the defendant Casen, the rest to Arminger himselfe, and that Casen was the plaintiff's attorney, both before and after judgement.

My Lord Keeper put this question: If a *fieri facias* goe to the Sheriffe, and the goodes are bought by Mr. Casen, and he keepeth the money, and the Sheriffe requireth it, must it not be delivered him? Lord Cheife Justice saith that without question, the Sheriffe may keepe the money till the returne of the writt, for the writt is *Ita quod habeas denarios, &c.*, yet the Sheriffe may deliver the money to the plaintiff if he will: but then, in this case, the plaintiff receiveth the money, and yet will amerce the Sheriffe for not returninge his writt; he should then have delivered him the money. Saith my Lord Keeper, "Shew how you paied the money to Arminger or Goddard, or els you must yeild it was Champerty in you; and answere your amercinge the Sheriffe and keepinge the money from him." Mr. S[er]ieant then said that the Sheriffe was

amerced for not returninge his writt, which was Mr. Casen's assurance for the goodes (upon the matter) which he had bought. "Yea," saith my Lord Keeper, "but he would not deliver him the money, and Arminger and Goddard might have compelled the Sheriffe to have paid it to either of them. Without doubt," my Lord said [to] the Serieant, "Mr. Sheriffe had good security of the Bayliffes."

The Serieant in the second place urged that Sollers could not be a witnesse in this, because he was the partie greived, and shewed that by the Statute of 8° Eliz. cap. 2°, in such case the delinquent was to be ymprisoned six moneths without bayle or mainprise, and pay treble damages to the partie greived, and tenn pounds forfeited, therfore the partie greived is noe competent witnesse. The Lord Keeper answereth that it is true it is an offence against the Statute, and against the Common Lawe, but ther is a Statute 21° Ja. cap. 4, which dischargeth the action of debt, and therefore Page may be a witnes. "Then," said Hudson, "if he be a witnesse, he is but a single witnesse."

Mr. Serieant 3dly laboured to defend Jenners businesse. The charge, as seemeth by the proofe, is that Casen arrested Jenner for 40*l* for payment of 20*l*, that the debt grew due, 3*l* for a mare, and 17*l* in money lent, to be payd upon Sunday; offered upon Satterday, and offered on Monday, &c., but this is not charged in the bill. But he is charged for returninge the rescusse, for suinge the rescusser, and for suing the Sheriffes bondes of appearance upon some of them. To this the Serieant said that he did all by warrant of the lawe, that it was a practise by the Bayliffe of St Ethelbertes and his servants, that Walton was a knowne Bayliffe and needed not to shew his warrant, therefore the rescusse was iustlie returned, and the actions therupon legally brought, and therfore he hopeth the defendant shall not suffer for any thing he did by the lawe. And soe this daye's work was finished, the rest of the Cause being left to the next day.

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In the Starre Chamber 2<sup>o</sup> Maii, 8<sup>o</sup> Caroli Regis, Termino Pasche.

Before the same of the Kinges Counsell that were present att  
the beginninge of the Cause against Casen.

M<sup>r</sup> Hudson of Counsell with Casen proceeded this day in his Hudson.  
defence, and shewed that the charge of unduely amerceing the  
Sherife after satisfaction in Arminger and Goddards case is proved  
but by one witnes, and it was the Sheriffes fault.

For the takeing of the lease of the teythe and gleab lands of  
M<sup>r</sup> Lownes, it was *bond fide*. The charge is that there were suites  
betweene the parishioners and the Parson about Teythes, and that  
the Defendant tooke a Lease to mainteine the Parson and his right,  
therfore maintenance, but there is noe proofe that Casen brought  
anie suit for teythes: but he brought actions of trespass, for tres-  
passes donne in Corne, and tooke 14<sup>s</sup> for one trespass, and 20<sup>s</sup> for  
another proved to be of the value of 40<sup>s</sup>; deposicions read to that  
purpose.

For that charge of his makinge use of blank warrantes, it is a  
generall, to which he could make noe defence, and therefore noe  
good charge. As for the particulers that are mencioned of makinge  
the blanke warrantes, for Blofeld and the other particuler of Yorkes  
wife, the one was 9 yeares agonne, the other 8 or 9 yeares, both  
out of the charge of the bill, and these therefore can induce noe  
generall, as to aggravation or otherwise.

Againe, it is no charge to say one laboured to suborne a witnes.  
For his takeing of 14<sup>s</sup> for a trespass of 4<sup>d</sup>, it is but one single  
witnes, and he the partie greived that proves it, and for the other  
he tooke 20<sup>s</sup> for 40<sup>s</sup>; and as for the blanke warrantes, Dove the  
undersheriffe made them and he paied Fees for them; but it hath  
not been proved he made use of them in particuler.

Then was read by direcccion of the Court Richard Dove's depo-

sicion. He was under Sherife to Sir John Prescott, that he sealed blancke warrantes and delivered them to Casen, and he conceiveth the said Casen made use of the said warrantes, for that he tould him he had used them. M<sup>r</sup> Hudson said,—“The Sheriffe is but a single witnes, and is the greater offendour.” M<sup>r</sup> Hudson alsoe confessed that the Defendant Casen putt in Walton and Gunnis names, but with leave and consent of the under Sheriffe, and concludeth for his busines that, neither of the particulers beinge proved, it falls out that there is a tale of blank warrantes, but not one proved in particular.

For the great offence, the matter of words, and his misdemeanor in action proved by three witnesses directlie: first, his addressinge his speech to M<sup>r</sup> Cornwallis and the other Justices, and not to M<sup>r</sup> Serieant Hitcham: the wordes which he used were, that M<sup>r</sup> Serieant was not fitt to heare that cause, that he was partiall, that he bore malice to Finch, that he was Judge, partie and witnes, and that malice was an evill Judge. “My Lords, I beseeche you” (said M<sup>r</sup> Hudson) “take into your consideracion the provocations given to this poore man. Finch was his sonne-in-law, there was a suit in Chancery betweene this Finch and M<sup>r</sup> Serieant, he falleth into some breach of his dutie, he is bound over to the Sessions, at the beginninge of the Sessions, at the first call, his Recognizance must be forfeited, and noe remission of the forfeiture or respitt for his appearance graunted; this was certeinly *summum ius*; and if he said that which was truth, yet not fitt to be spoken in this tyme and place, his fault is the lesse. A farre greater thing, and seeminge to be iustifyed, was extenuated in the case of the greatest Judge of this Kingdome.”

In the cause  
betweene the  
Lord Keeper  
and Bonham  
Norton.

M<sup>r</sup> Serieant sued Casen at law for the sclander. Casen iustifyeth the words. M<sup>r</sup> Serieant doth not take issue, and goe on to tryall, but demurreth in law. This is an admission of the truth of his plea. We hope then this is not soe great a fault as to drawe anie great punishment, for, as the proverbe is, there is some blame but noe shame; and, besides, he hath not gonне unpunished; he was com-

mitted to the Gaole and bound to the good behaviour, and donne by that Court which looked upon the offence. And for the words spoken in a great Court, in the same wordes and termes, the demurrer therof is yet undetermined, and, if your Lordships please to remember, this Court, in the cause against the Serieant for the unfittinge manner of speakeinge these words, gave the defendant noe dammage.

For the auncient records mencioned by M<sup>r</sup> Atturney, was there anie of these Judges iudged and sentenced for ill behaviour against these men?

For gayninge the Articles by M<sup>r</sup> Serieantes mayd, he had before used what meanes he could for a sight of the articles; but for the great offence, that he should labour to suborne Smith's daughter to sweare that M<sup>r</sup> Serieant contryved them, and used these words to her, " If you doe but thinke it you may sweare it;"—there is not a word of this in the bill.

Mr. Recorder of London, beinge alsoe of Counsell with Casen, The Recorder of London. proceeded with his defence, and first spake of his suinge in two courts. That, at the suit of George Finch, he sued the two Hills upon a bond in the Common Pleas to the *exigent*. He afterwards saw an opportunity to arrest the defendant, which for the benefitt of his cluyent he did, but after the arrest proceeded no further upon the *exigent*. He arrested him in the King's Bench. It is true if one sue for a debt by originall in common place\* and afterwards declare in King's Bench for the same, the partie maie plead it to be dependinge by originall. But in trespass, if the partie sue first by originall in the Common Pleas, and then by a *Latitat* in the King's Bench, declare for the same trespass, yet the defendant cannott plead the first writt, because the King's Bench is the proper court for trespass especiallie, and therefore this is vexation, but here was noe declaracion, but it was in debt, &c.

For the offence charged upon him for sellinge of cattle upon

\* *i. e.* the Court of Common Pleas.

excessive prices. For that of Jefferyes and Spooners, there is noe charge in the bill of it, besides Spooner is a single witness, and the partie greived.

For that accusacion that he had much cattle in grounds, and because he made conscience of usurie he would sell them att deare rates, and putt them off with lendinge money, and soe makes this gaine; this is but one witnes, and as the neighbours say. For that of Nuttall's, that is charged, but it was 10 or 11 years since, and this was the surety that witnessed it, and is the partie greived. And because there is a generall inquisition made uppon his whole life, he pleadeth his Majesties gracious generall pardon, for that there is noe colour of proofs for anie other thing, but is above 10 yeares sithence, viz. about the oppressions.

There remaineth yet foure charges not spoken to: 1. For forgerie of a warrant for the takeing of one Blofeld; it is charged that he had a warrant for takeing of one Mary Vere, and that he should insert Blofeilde's name, this is proved but by the partie himselfe, and that 10 or 11 yeares since; noe man soe vile as to inserte a name and forge a warrant in presence of the partie; and an action was brought by Casen against Blofeld for this word of "Forgerie," and Blofeld sweareth he did iustifie it, but by the record it appereth he pleaded not guiltie: likewise the warrant was iustified by the Sheriffe. 2. Another charge there is for his putting in of one Anne Birch, that he should burne one warrant and presentlie write another, and this likewise to be donne in Bond's sight, and Bond himselfe afterwards asked the deponent about what tyme Casen forged this warrant, and the proofe was it was either a warrant from the Sheriffe or the Bayliffe of S<sup>t</sup> Ethelbertes—very improbable. 3. For that charge of one Dennies businesse, that Mr. Casen should take 24<sup>s</sup> for 12<sup>s</sup> about 6 or 7 yeares since of him, and he is the partie himselfe that paid the money, it is cleare he is the partie greived, it is proved he gave ill words. It is said he was to pay it upon Sunday, and it was refused presentlie before and after; this is denied, and proved but by one single witnesse,

and the partie greived, besides if he had taken the forfeiture it is not criminall, there are Courtes of law and conscience to redresse such things; he hath donne nothinge herein but the law warrants. "Onlie," saith Mr. Recorder, "this of the blank warrantes we shall leave to your Lordships." 4<sup>ly</sup>. For entring of judgement against Clement Dennis: The plea was a barre by reason of judgements formerlie recovered against her, and did not say beyond which she had noe assetts in her hande, and for the insufficiencie of the plea Mr. Brome did taxe costes at 20<sup>s</sup>, and this was the course of the Court, and that there was a judgement in Court all sides say. And for the actions brought upon the rescusse the law alloweth them. Thus, beseeching your Lordships to consider the defendant hath been an Attorney above 30 yeares in this Court of King's Bench, and in all that tyme that Court never heard of him, nor the Justices of Assize, we hope for your Lordships' favorable censure.

Afterwards Sir John Finch replied and shewed Casen's provo- Sir John cations to the Serieant, in dareing manner, wishing him to read Finch. the articles and to produce them. This proved by the deposicion of Mr. Sledge's man, the Clark of the peace, and by Mr. Rivett, one of the Justices of peace; and that he was committed by the order of the whole Court, &c.; and then shewed how Casen would have had the Serieant arrested in Westminster hall, and after by the Bayliff of St. Ethelbertes, and shewed that the Recognizance was not returned forfeited against Finch, but his appearance was afterwards accepted; and for the leavinge out of the bill that article of the bawdry, it was not fitt for this Court; for the articles preferred to Kinge James they were the cry of the Country; and in particular laboured to weaken the defence, and soe left it to the Censure of the Court, which was deferred till the next day.

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In the Starre Chamber, Pasche, 8 Caroli, 4 Maii.

|       |   |  |
|-------|---|--|
| Coram | Thoma, Domino Coventry, Domino Custode Magni Sigilli Angliae.                 | Domini<br>Regis<br>Consilii<br>ibidem. |
|       | Ricardo, Archiepiscopo Eboracensi.  |  |
|       | Henrico, Com[ite] Manchester, Dom[i]no C[ustode] p[rivati] Sigilli.           |  |
|       | Henrico, Com[ite] Danby.  |  |
|       | Thoma Richardson, mil[ite] Dom[i]no Capit[ali] Justic[iario] B[anci] R[egis]. |  |
|       | Rob[er]to Heath, milite, Dom[i]no Cap[ituli] Justic[iario] Com[munis] Banci.  |  |
|       | John Richards, gentleman  |  |
|       | - - - - Pl[ain]t[iff].  |  |
|       | Two Constables  | - - - - Defend[ants].                  |

John Richards of D. in the Countie of Devon, gentleman, brought his bill in this Court against two Constables, for presenting him to the Justices for being a corne master, and not bringinge out the same to the Marketts, and for searching in his barne, according to the Kings instructions. The bill chargeing the Constables comming into his house as a ryott, the defendants pleaded not guiltie, withall shewing the whole matter, and it was referred to S<sup>r</sup> Thomas Richardson, one of the Justices of Assize there, and he reported that it was a cause not worthy this Court, and prosecuted against the Constables meerly for doinge their dutie &c. wherefore the cause was dismissed, and ordered that the pl[ain]tiffe pay double costes.

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[THE DEANE OF EXETER V. FROST AND OTHERS ]

Deane of  
Exeter.

The Deane of Exeter hath a bill in Court for repayringe of his honour, being scandallised with getting a maid with child, either adultery or fornication. The Cause is at publication, but it is not

yet passed. The defend[an]tes moved heretofore that the pl[ain]-tiffe might not proceed till he produced their principall witnesse, vizi. the maid her selfe that had the child, kept away of purpose, because she should not be examined; now she is found. Mr Hudson, for the defendantes, move[d] for a Comission to examine her, the plaintiffs Counsell withstood it, because it would hinder the speedie hearinge of the cause. It was answered that it should be noe hinderance, that they were as willing for the hearing of the cause as the pl[ain]tiffe, and that there might be a *salva entred*, which was ordered, and that the said witnesse, and some other moved for, might be examined and the pl[ain]tiffe might crosse examine them, and alwaies a *salva entred*, and publication to passe at such a tyme prefixed.

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#### SENTENCE OF CASEN'S CAUSE.

Then the Court proceeded to the sentence of the cause between the King's Attorney plaintiff, Casen, and Daniell Walton, and Edward Gunnis defendants. MY LORD HEATH quitted Walton, and censured Gunnis, for the practize against Spooner, by tamperinge with his witnesses, and sett 50*l* fine upon him. He sentenced Casen only for 3 things; for the oppression of Walton, and for the multiplicitie of suits upon Jenners oppression and the rescusse, and for the unseemlie words against Sir Robert Hitcham. He condempned that practise of blank warrantes, as makeinge against the Kings proffitt, the King thereby often losinge his Fines,—but for this he could not sentence him, because it was onlie a generall charge upon the matter. He therefore sett 500*l* fine upon Casen, and imprisonment according to course, and would referre it to the Court where he is Attorney to be examined, and Casen to be put out of the roll as they shall see cause.

The LORD CHEIFE JUSTICE found very much fault with Casen about Jenner's oppression, and his multiplicitie of suites upon the rescusse, and for manie other things, and utterlie condempned the use of blank warrants, and also the putting in of a bayliffe's name,

and said if the partie be taken upon execution, and if he please he may bring his action of false imprisonment, but yet his Lordship leaft Casen to answear to God for all but two things, as the Emperour would have perjured persons leaft to give accompt to the Gods. He sentenced him for his audacious carriage against Sir Robert Hitcham in the Sessions, and for his misdemeanour in practising to gett the articles by stealth, and then to suborne the maid, for which he sett a fine of 1000 markes upon Casen, and to be put out of the roll, if the vote of the Court goe that way, and to practise noe more.

For Gunnis his foule offence in suffocating the truth, a matter of very ill consequence and example, he sett upon him therfore 100<sup>li</sup> fine, and Walton and he both to be disabled from being Bayliffs.

The EARLE OF DANBY, LORD PRIVY SEALE, ARCHBISHOP OF YORK and LORD KEEPER all agreed that Casen should practise noe more, that he should make recognition of his offence to Mr. Serjeant Hitcham att the publique Assizes at Bury, and the maior part of the Court were for 1000 markes fyne upon Casen and 100<sup>li</sup> upon Gunnis, but Walton and Gunnis both to be bound to the good behaviour. And my LORD KEEPER mencioned the Statute of 4 H. IV. whereby all Attorneys were to be examined, and by the discretion of the Justices they that be good and vertuous, and of good fame, shalbe put in the roll, and duly sworne, &c., but this man is not of good fame, and therfore my Lord Keeper gave sentence that he should he put over the barr. And the Archbishop of Yorke observed, as he said, the finger of God, in that he had pointed to the Court, as it were, that as there was a nest of vermin discovered, soe that this man and such as he were worse then vermine, &c. which was upon occasion of a nest of yong rattes or mice which came from behinde the King's Armes and ranne about upon the plaister, or beames, till 3 or 4 of them fell downe in the Court, and one lighted on my Lord Richardson's back,—27° Aprilis, when the Cause was in hearinge.

In Camera Stellata, Pasche, 8<sup>o</sup> Caroli, vizt. 11<sup>o</sup> Maij.

|       |  |  |
|-------|--|--|
| Coram | Thoma, D[omi]no Coventry, D[omi]no C[ustode] M[agni]<br>S[igilli].               | D[omi]ni<br>R[egi]s<br>Consil[io]<br>ib[ide]m. |
|       | Henrico Com[ite] Manchester, Do[min]o C[ustode] M[agni]<br>P[rivati] S[igilli].  |  |
|       | Ricardo, Ep[iscopo] Ebor[acensi].  |  |
|       | Joh[anne], Comite Bridgewater.   |  |
|       | Henrico, Com[ite] Danby.   |  |
|       | Will[ellmo] Ep[iscopo] Lond[inensi].   |  |
|       | Thoma Richardson, milite, D[omi]no Cap[itali] Justic[iario] de<br>Banco R[egi]s. |  |
|       | Roberto Heath, Milite, D[omi]no Cap[itali] Justic[iario] de Banco<br>C[ommuni].  |  |
|       | Francis, Lord Cottington, Cancellario Scacc[arii].                               |  |

Thomas Young, gentleman, and John  
Sayer, his servant - - - - Plaintiffs.

Thomas Broughton, Esquire, and others Defendants.

Et è Contra.

The said Thomas Young and Sayer sett forth in their bill that, in the parish of Eccleson and lordship of Jarnes, there is a chappell of ease belonging to the Church of Eccleson, that the Plaintiff Young his Ancestors built the said Chappell for their owne house and familie, and some of the same parish dwelling thereaboutes, that the Plaintiff Young hath repaired the said Chappell, and reserved to himself and his servantes certaine seates, and in one of the said seates the said Plaintiff Sayer usuallie sate. That Thomas Broughton Esquire, the Defendant, being growen greater then his Ancestors, joyning and combyning with Thomas Broughton, his uncle, and with divers others his Tenantes, 3<sup>o</sup> Maij 5 Caroli, came in a riotous and routous manner armed to the said chappell in the tyme

of divine service, and entred into one of the said seates, in parte of which the plaintiff Young and his Ancestours have heretofore usuallie sitten, and in the lower parte thereof the defendant and his Auncestours have sitten. That at this tyme, before the comminge in of the defendants, the plaintiff Sayer, being his Masters Bayliffe, was in the higher part of the said seate there sittinge, that the Defendant Thomas Broughton, and his uncle, came into the same seate, and after a while tooke the said Sayer by the haire of the head and pulled him by the eare, and bended his head downward, and knocked his head against the Bench, and drew him out of the seat in violent manner, and threw his staffe out after him, whereatt the minister being disturbed made a stand, and there was a great tumult in the said Chappell. Afterwards the Plaintiff Young commeth out of his seat in the chauncell and endeavoureth to enter into the seat from whence his said servant was expulsed as aforesaid, but the Defendant in violent manner thrust him on the shoulder and violentlie kept him out. And in the afternoone of the same day, being the Lord's day, otherwise called Sunday, the said tenantes of the said Defendant, by the direction of the Defendants, with staves and weapons came to the said chappell, and entred into the said seat in question, and kept out the plaintiff and his servantes. And the Defendant Broughton, when he tooke the plaintiff by the shoulder, used these opprobrious wordes to him, viz : " Thou art a proud coxcombly foole. I would I had thee in place where thou and I might try it out, &c."

After the bill thus opened, the Archbischoppe of Yorke found fault with the Plaintiff's takinge the Office of the Ordinarie upon him in appointing and disposing seates altogether as pleased him, and expressed that whilst he was Bishoppe of Winchester noe causes perteyninge to the ecclesiasticall jurisdiccion under him were more frequent then broyles about seates, and because they were an occasion of much discord it were good to restraine them.

The Bishop of London likewise interposed and said, that if this chappell be for the Plaintiff's owne house and some of his neigh-

bours, if others come that ought not, that this is a conventicle: for if a man hath a chappell in his owne house, none of other families may be admitted to their exercises of religion; if they are, it is a conventicle.

Then was opened the Answere of the Broughtons, the Defendants. That this is a chappell of ease for the whole hamblett, that Young, the Plaintiff, boare the charge in repayringe of itt with others, and the Defendants contributed thereunto. That the Defendant Broughton, hearinge that there would be a sermon there the said 3<sup>d</sup> of May, he with his uncle and his usuall attendantes repayred unto the said chappell, without violence, and the Plaintiff had placed the said Sayer, his plowman, in the highest seat, one of them, in the church, where the Defendant was to sitt. That the said Thomas and Thomas Broughton entred quietlie into the said seat, and after a while perceivinge the said Sayer, being a meane man both in habit and otherwise, the Defendant asked him who appointed him to sitt there, and he gave him a sawcie answere, and said to the Defendant that he had as good right to sitt there as hee and might sitt there as well as hee. It is true thereupon the Defendant put out this plowman, and afterwards opened the dore and put out the staffe, in a quiett manner. That after this the Plaintiff came out of his seat in the chauncell, and would have entred into the said seat, where the Defendants were, but the Defendant Thomas Broughton would not suffer the Plaintiff to enter. Whereupon there was some stirre in the chappell but occasioned by the Plaintiff himself. That the Plaintiff had called the Defendant before the Ordinary for the same pretended offence, and likewise served him with letters missive out of the High Commission, but hath not proceeded in either course, &c.

Here the Defendant Broughton was declared by some of the lordes to be the high sheriffe of Lancastershire latelie, and a man of quality, &c.

The other Defendants, being servantes and tenantes of the said

Broughton, answered that in the afternoone upon the said 3<sup>d</sup> of May, they sate in theire master's seat, as they use to doe when he is not there, but without their said master's direction, and are not guilty of the offences complayned of, &c.

Then was the crosse bill opened by m<sup>r</sup> Phillip Gerard, wherein the said Broughton set forth that m<sup>r</sup> Young hath made a new chauncell of his owne head, and annexed the same to the said chappell, that neither the chappell nor the said chauncell were ever consecrated, that m<sup>r</sup> Broughton repaired, aswell as the said M<sup>r</sup> Yong. M<sup>r</sup> Buller preached [3] Maj 5<sup>o</sup> Caroli, M<sup>r</sup> Broughton commeth to church with his uncle and familie, without anie armes but their bibles. Comming into the chappell he found Sayer the plowman in his seat. M<sup>r</sup> Broughton suffered him to sit there all the service while, but afterwardes, seing his meane condition, he asked him who he was, and why he sate there. Sayer replyeth he sate there by his master's appointment, and gave him other provoaking wordes, whereupon M<sup>r</sup> Broughton quietlie put him out. Then commeth M<sup>r</sup> Young from his new built seat in the chauncell, and would have entred into the seat where M<sup>r</sup> Broughton was; but M<sup>r</sup> Broughton would not permitt him, to avoide strife; and because M<sup>r</sup> Young could not have his plowman sitt in the highest seat, therefore after three Sabbath daies he locked up the church doores, soe that there was neither service nor sermon.

The Answere hereonto was the summe of the former bill, that the Chappell was appropriate to M<sup>r</sup> Younges house, and that for 3 yeares togeather, since the Chauncell was built, his Bayliffe did sitt in that seat, &c. Not guiltie to all the misdemeanours.

The LORD KEEPER propounded this question;—Whether this were to be punished as a Conventicle, or as a disturbance? And for his owne opinion shewed that he thought it noe Conventicle, and that this Chappell, being 200 yeares used, was surelie consecrated, and that they durst not mee in it if not consecrated. Soe said the BISHOP OF LONDON, though in these audacious tymes they durst doe

it. But for the Chancell (though men now a daies would have Churches without Chancells), yet seeing this was built, he would have it consecrated, if it be not alreadie.

Sir JOHN FINCH saith that M<sup>r</sup> Young hath long had this as a S<sup>r</sup> John Finch Chappell of ease, and the point was not whether it were consecrated <sup>of Councell with Mr.</sup> or not consecrated. "Noe," saith the Arch Bishop of Yorke, "He Young. new built the seates and appointed them to whom he pleased without his Ordinarie."

The BISHOP OF LONDON saith that it were good a course were taken that seates might be taken away in Churches, for that noe kingdome but ours hath seates in their Churches. And that God Almighty would be better worshipped, and the occasion of jangling taken away.

S<sup>r</sup> JOHN FINCH proceeded, shewing that noe violence must be used in the Church at anie tyme, much lesse in tyme of Divine Service, where there should be no respect of persons, but heere M<sup>r</sup> Broughton presumeth to take the poore honest man by the face, tooke him by the collar. His Master, M<sup>r</sup> Younge, was the Cheife Lord of the mannour, and truth is, M<sup>r</sup> Younge's ancestours and M<sup>r</sup> Broughton's sate in one seate together, and m<sup>r</sup> Younges ancestours sate in the higher part of the seat, and this was with the Ordinaries allowance att first.

It was proved by witnesses that m<sup>r</sup> Young is a gentleman of a good familie, and that the said Sayers is an honest servant, and that M<sup>r</sup> Younges Ancestours sate in that seat: and it was proved that M<sup>r</sup> Broughton tooke Sayers by the haire of the head, and bowed him downe very lowe towardes the ground by the haire, and then thrust him out of the seat, and threw his staffe after him: That M<sup>r</sup> Young seeing his servant thus used, and to mainteine his right to the seat, came to goe into the same, but M<sup>r</sup> Broughton tooke him by the shoulders and held him out, saying these wordes: "Thou art a proud coxcomby foole, I would I had thee in place where that thou and I might try it out." M<sup>r</sup> Buller the Preacher said that M<sup>r</sup> Broughton made the disturbance. And it was proved

that 40 yeares since M<sup>r</sup> Broughton's grandfather did come into the lower part of the said seat with his sonne in law, and there they sate; and further that M<sup>r</sup> Young was very patient in receivinge these abuses.

M<sup>r</sup> Broughton's Defence.

That his ancestours have right and have sate there in the seat, and it is true he put forth the ploughman, as being not fitt to sitt in the highest seat of the Church, but the disturbance was afterwards, and caused by the Plaintiff Young by his comming out of his seat. And further he caused the doores to be shutt three Saboth daies, soe that noe prayers were there, &c., to this purpose was the proofes of M<sup>r</sup> Broughton.

It was debated between my Lord Cheife Justice and the Bishop of London whether this disturbance were within the statute or noe. My Lord Cheife Justice was of opinion that it was not directlie, because that a chappell is not named therein. The Bishop called this new doctrine, att which my Lord Cheife Justice was something moved, and againe affirmed it to be soe, and that his reason was this, unto every penall statute, as this is very penall, a strict exposition according to the wordes must be given, and yet, though it be not within the Statute, yet it is punishable by the Ecclesiasticall Jurisdiction.

And M<sup>r</sup> Hudson alleadged a precedent in this Court 44 Eliz. where the fine of 100*l*<sup>i</sup> was layd upon one for a disturbance att prayers in a private house, in the house of Sir Thomas Posthumus Hobby.

Soe the Court came to give sentence, which was, that M<sup>r</sup> Broughton and M<sup>r</sup> Young were both to be sentenced, the one for makinge the disturbance, and the other for occasioning of it: therefore all the Defendants were dismissed saving they two, and both of them fyned att 100*l*<sup>i</sup> a peice to the King, and to beare their owne charges.

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In the Starre Chamber, Trin. 8<sup>o</sup> Car. 7<sup>o</sup> die Junii, 1632.

The Kings Attorney generall against my Lord Viscount Savill and others by relation of Sir John Jackson.

S<sup>r</sup> John Jackson, William Ramsey, Esq., and divers others being hunting of the hare in Water Priston feildes, belonging to Mr Vavisour and, within the honor of Pomfrett, in Yorkshire, the Lord Viscount Savill, with manie others his freinds and servants, came with their weapons into the feilds, and in ryotous manner assaulted Sir John Jackson. The Lord Viscount Savill strooke at Sir John with his drawen sword, and followed after him and drove him into a plash of water, and called to him saying, Sirra, who gave thee leave to hunt heere? S<sup>r</sup> John answered by Mr Vavisours leave he hunted there. S<sup>r</sup> John shewed in evidence an auncient graunt of a Free Warren within Water Priston to Mr Vavisours Ancestor: and showed likewise the Lord Savill's letter sent to Mr Ramsey, in evidence to prove the ryotous intent, wherein he intimated to Mr Ramsey that his Ma<sup>tie</sup> had graunted unto the said Lord Savill and his father, the keeping of the game within all the honor of Pomfrett, and that his Ma<sup>ties</sup> speciall commaund was, none should hunt there without speciall leave, and yet Sir John Jackson had taken upon him to hunt and kill more hares then was fitt, whereatt he was willinge Sir John should have notice of his dislike, and to this purpose sent this letter to Mr Ramsey having understood that he was one that hunted with S<sup>r</sup> John Jackson, and in the postscript, if Sir John Jackson come againe to hunt this weeke it were kindlie done to lett him know it, and I assure you (saith the letter) I will welcome him. My Lord Savill came ryding before his companie, being about thirtie in number, and looking back he asked them with an oath, What will you not draw? That thereupon divers swords were drawen, and one of my Lords men struck at S<sup>r</sup>

John Jackson with his sword, but missed him narrowlie, and my Lord Savill provoked S<sup>r</sup> John Jackson to fight, saying that a pott of ale were fitter for him then a sword.

My Lord Savill's defence was that the custodie of the game within the said Honor perteyned to him, and that he went to the feild to prohibit S<sup>r</sup> John Jackson, and to shew him the broad Seale, and alleaged that S<sup>r</sup> John assaulted him, &c. and soe not guiltie. Divers others answered that they were but present, and did offer noe violence, and the servant iustifyed his strykeing at S<sup>r</sup> John in his Lord and Master's defence. But this defence falling short against the proofes made, the Court proceeded to sentence, and fyned the Lord Savill one thousand pound to the King, and adiudged to pay 150*l* damage to the said S<sup>r</sup> John Jackson. And all the defendants that were present and drew their swords were severallie fyned.

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Trin[ity] terme, vizi. 8<sup>o</sup> Junii, 1632. In the Starre Chamber.

My Lord Savill - - - - Compl<sup>t</sup>, against  
S<sup>r</sup> John Jackson, and others - Defe<sup>n</sup>ts.

The Bill pretendeth that S<sup>r</sup> John Jackson, S<sup>r</sup> John Ramsey, and manie others w<sup>th</sup> them, committed divers Ryotts upon y<sup>e</sup> Lord Savill and his servants in this manner, that the Plaintiffe and his father were seized of the offices of Steward and Keeper of the game, by vertue of the Kinges graunt, and his Mat<sup>e</sup> for reasons best knownen to him did in the said Letters Patents, and otherwise, comaund a restraint of killing the hares in the manors perteyning to the Honor of Pomfrett. That my Lord Savill gave publique notice of this restraint. Yet S<sup>r</sup> John Jackson, bearing

malice to the Plaintiff and his father, did combyne with the said Sir John Ramsey and the other defendants to doe some affront and disgrace to the Plaintiff, that it should be done under colour of a generall hunting from 15 No. 4 Caroli, for 9 daies together, for which purpose 40 or 50 of them were gathered together, armed with staves and javelynes, and some with double swords for themselves and their masters; and they hunted in the Mannor of Staunton and in the Mannor of Priston; and they came into the Towne of Pomfrett, and there vaunted at their feasts that they had hunted and would hunt, and that the Plaintiff should know it, and in a taverne read the Plaintiff's letter in scorne. The next day the Plaintiff mett S<sup>r</sup> John Jackson in the feild, and used moderate words to him, and asked him what warrant he had to hunt there; that S<sup>r</sup> John Jackson assaulted the Plaintiff first, and Graunt the Plaintiff's man did but help to defend the Plaintiff; and that Sir John and his companie continued the hunting tenne dayes, &c.; that the Plaintiff then said he would seeke his remedie in this Court. But Sir John, to prevent the Plaintiff in his suit, came with his servants and one of his brothers to the Plaintiff's howse in King's streat in Westminster, and there, under colour of serving subpœnaes out of this Court, made an other ryott upon the Plaintiff's servants in his said house.

The Defendants answerē that this Bill is a bill of recrimination, comminge in three termes after S<sup>r</sup> John Jackson's bill. They denye the combynation to affront or disgrace the Plaintiff and his father; that it was an yearlie use for them to hunt, at that tyme of the yeare in those parts; that there were a Lease of hares killed. That S<sup>r</sup> John Ramsey and S<sup>r</sup> John Jackson were at the Towne of Pomfrett, and were chosen Burgesses for the Parliam<sup>t</sup>, they were there to know what service the Townesmen would commaund them, and all the defendants in their answers cleare the defendant S<sup>r</sup> John Jackson touching the assault, all witnessing that my Lord Savill assaulted him first, that they hunted in Mr. Vavisour's ground, and by his leave sometymes the hounds would runne out into other

grounds. That hereupon the Defendant Sr John Jackson sent Sandford his servant one of the Defendants to serve the Subpenaes upon the plaintiff's servants, that Nevill was served, and receiving the writt threw it downe and tooke hould of the partie: That Henry Jackson went with Sandford to read the Subpenaes, and seing violence offered to the said Sandford he did goe forth into the streat and drew his sword in his defence. After the proofes on both sides read and the Bill and answeres opened, the plaintiff's bill was dismissed and the plaintiff fined *pro falso clamore.*

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King's Attorney, plaintiff,  
against one Browne an Attorney.

The charge of the Bill is that the said Browne being an Attorney procured an execution out of the Common pleas against one A. B. whereas there was noe originall declaration nor judgement, and procured him to be arrested, &c.

The defendant saith that the said A. B. his Attorney sett his hand to one Mayer's booke a Clarke in the Common pleas, for the iudgment, that the said defendant saw the booke, and thereupon trusted the said M<sup>r</sup> Mayer to enter up the iudgement, and willed him to make forth a *capias ad satisfaciendum*, which was done and the partie arrested; but before the judgement was entered which Mayer was trusted with all to doe he died of the plague. It was in Trinity tearme, in the great plague tyme, and the course is that judgements are not entred till after the terme, and before the entry of the judgements the said Mayer dyed, soe it was thought and held no voluntarie abuse, and therefore noe misdemeanour, and the Bill was dismissed.

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In the Starre Chamber the same day, vizt. 8<sup>o</sup> Junii, 1632.

Micha Smith - - - - - | Plaintiffs.  
Martha Osmonton, wife of A. Osmonton, |  
and the said Osmonton - - - - - }

For a lybell.

Beniamin Martin, A. B. his servant - | Defendants.  
Joseph Turpin, Spirling and Harison - }

That Micha Smith and the said Osmonton and Martha his wife are persons of good name and reputation, and the Defendants ledd with malice among themselves framed and contryved a false and scandalous lybell in meeter or verses against the said Martha Osmonton and Micha Smith. The verses were sett to the tune of Tom of Bedlam, and to this effect: There is a report of a cryme committed betweene some of the holie Brotherhood, ending with a scurrilous verse, wench lye still, &c. and none did suspect that they were the elect, up the hill they came tripping w<sup>th</sup> nimble bodies bending, and upon her he nymblie skipped: and so when he had instructed her, he said Yonder cometh a sinner Her husband then like an heavy headed man came up the hill lamenting, the bell ringing away they hast to sermon. Her face is long, her browes are black, her high wooden heeles they are in the fault, they made her catch a fall, and as for the man soe holie he is, that he will speake to noe bodie he meets, &c. That these verses were meant of the Plaintiffs Micha and Martha, and her said husband, and the defendants did afterwards maliciouslie scatter and publish the same verses, to the great scandall of the complainants and of religion, &c.

The defendants doe all confesse in their answeres that the plaintiffs are persons of good name, and for ought they ever heard of

honest lyves and conversations, and Turpin went about to excuse himself by this, that he shewed the libell to two of the jurats of the Towne of Rye in Sussex, vitz. to John Nowell and Richard Mills, Jurats and Justices of the peace, who said that the Author of them was worthie to be punished, and that he knew not who were meant by it, and delivered the same as an idle paper to one Mrs Palmer, widdowe, but he did not labour to suppresse the same, and soe he and all the rest, save Martin's man, who made the lybell, pleaded Not guiltie, and lefft the plaintiff to prove. Martin's man ranne out of the country.

And they shewed by dyvers witnesses that the plaintiffs have lived for manie yeares togeather without anie such disgrace, and in good reputation among their neighbours; and it was proved that Turpin said there were verses of some of the purer sort, and that he would give a pott of beeare to see them, and that Harison wrote them out by Spirings meanes for the said Turpin, and that he had spoken of them in Osmonton's shoppe before his face. Mills the Jurat testifyed that Joseph Turpin confessed before him that he gott them written out and gave him that wrote them a quart of wine for his paines, and that he delivered the verses to Mrs. Palmer, widdowe; and he beleiveth they were made of the plaintiffs, because Martha Osmonton is of the heighth and visage in the verses mentioned, and it was rumored of them. Another witnesse saith that he hath heard the verses were made against Micha Smith and Martha Osmonton, and that Beniamin, Martin's man, made them as Martin himself confessed, and said he would beare out his man for makinge of them, for (said Martin) they say it is a lybell, but I say it is a true bill, and He (meaning Micha Smith) did lye with Martha Osmonton if I ever lay with my wife, and he said he would helpe a coppy to anie that desired it. Another witnes, He thinketh these verses were made against these persons the plaintiffs, and he heard Beniamin Martin say in an Inne that it was a true bill, though they called it a libell, and said he would iustifye it; and this he spake with great earnestnes, strikinge his hand upon the

board. Joseph Turpin in his examination saith that the Complainants have ever behaved themselves honestlie, as farre as he knoweth; that he did not publish the said verses, but shewed them to the aforesaid two Juratts, and buying of sugar at Mrs. Palmer's shopp he pulled out the paper and gave it unto her. Beniamin Martin upon his examination saith that Robert Wright his servant made the said verses, and doth not think they were made of the complainants, and for anie thinge he hath heard or knoweth they did ever behave themselves honestlie.

LORD COTTINGTON saith it is a lybell without question, and a Sentence. shameful plott by them against religion. Martin's man made it, Lord Cottington. his master said he would justifie it, Spiring and Harrison they published it, but he doubted whether Turpin be to be punished because he shewed it to the Juratts. Spiring and Harrison, though they knew not who made the libell yet knew whom it concerned. He therefore fyned Martin, Spiring, and Harrison at 100*l* a peece equallie, and thought good that the decree appoint them to make recognition of the wrong donne by them, and ordered them to pay betweene them 40*l* a peece for dammages unto Osmonton and his wife. Micha Smith died since the bill exhibited, and he fined Martin's man also at 100*l*.

LORD HEATH saith this is a mockery of religion, and though they pretend they knew not of whom it was made, they must needs know it was meant of some neare thereabouts, for Martin himselfe he deserves to pay more, 200*l* fyne, and the rest 100*l* a peece, and Turpin to pay 100*l* fine also, and 40*l* damages to y<sup>e</sup> parties, and acknowledgment of their fault at the barre in this Court, and in y<sup>e</sup> place where the offence was donne.

None of these defendants can be sentenced for the author of this Lord Richardson. lybell, but for publishinge of it. I shall sentence them all; I shall not exempt Turpin, for he delivered it to two severall persons, nay to three. Certainlie he was delighted with it and reioyced at it: though he did deliver it to the Juratts: if it had bin by way of complaint, yet it was a publishing of it. I take it this is the rule,

if it concern a publique person the libell must be shewed to the Kings Councell or some competent judge, but if it concerne anie private person he that findeth it must burne it: but this man gave wine for the writing of it. The poore sword-bearer of York was sent for a quart of wine and by the way there was a libell reading, and he did but stay the reading, and heard it, and laughed at it, and this was punished here, and that severelie. This is, therfore, an offence in him, without question. For Martin, he is a publisher, nay, a justifier of it: Is it a libell? Nay, it is a true bill, and he setteth the tune of it, to the tune of the Watch Currants and Tom of Bedlam. It is a wicked and profane libell against such as goe to Church carefullie, to heare praier and to heare sermons. I say they are Atheists that scoffe at religion in others. I adjudge that Turpin, Harrison, and Spiring pay 200*l* fine a piece, Martin and Wright 500 marks a piece, 100*l* dammage, to make acknowledgment of the wrong donne to them in this Court and in the country, and that they shall all be bound to the good behaviour.

BISHOP OF LONDON saith it is a very foule libell made against these persons, as it appeareth to him, and against religion. He noted two circumstances out of the proofes, that it was begunne in Rymes house an alehouse, and the tune was sett betweene Martin, Turpin, and Harrison, but Martin outweigheth all the rest, for he hath contradicte himselfe. He said (as two have sworne) it was a true bill, and he would justifie it, and yet, upon his oath they lyved honestlie for aught he heard or knew: in the fynes, damages, and sentence he agreed with the Lord Cheife Justice Richardson.

|  |   |                                       |
|--|---|---------------------------------------|
| The EARLE OF DANBY - - - - -               | { | were but short, and<br>agreed with my |
| The EARLE OF BRIDGEWATER - - - - -         |   | Lord Cheife Justice                   |
| The EARLE OF ARUNDELL AND SURREY - - - - - |   | Richardson.                           |

|                                |   |   |
|--------------------------------|---|---|
| The LORD PRIVY SEALE - - - - - | { | were very short likewise, but<br>agreed with my Lord Richard- |
| ARCH BISHOP OF YORKE and       |   | son in their sentence, savinge                                |
| LORD KEEPER - - - - -          |   |   |

that the Archbishop would have the plaintiffs make their purgation before their Ordinarie, because here was more then a fame; and this the Lord Keeper said was not to be donne, because the defendants themselves had upon their oathes cleared them sufficientlie.

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Robert Peterson, Deane of the Cathedrall  
Church of Exeter - - - - - Complainant.

|   |   |             |
|---|---|-------------|
| Samuell Travers, Clarke, William Cotton,<br>chauntor of the same Cathedrall Church.<br>Edward Cotton, Archdeacon of Totneis.<br>Joseph Martin, Clark, the said Archdeacon's<br>officiall.<br>Faulkner, servant of the said Edward Cotton.<br>Arthur Bampton and Katherine his wife,<br>and<br>John Frost, father of the said Katherine. | } | Defendants. |
|---|---|-------------|

Samuell Travers by letters of commendacion of William and Edward Cotton obteyned the King's Mat<sup>ies</sup> letters to command him to the Dean and Chapter, to command him to the next Chanon's place, but the plaintiff taking notice of the unfitness of the said Travers, he endeavoured to crosse them, and besought his Ma<sup>tie</sup> that the Deane and Chapter might be lefft to a due and free election, and his Ma<sup>tie</sup> wrote his gracious letters accordingly recalling his former letters, whereupon the defendants give out threatening words that they would wish the plaintiff to desist in his course against them, or els they would soe bespatter him as would bring him into disgrace with his best freinds, and hinder his preferment for ever: They plotted and conspired, therefore, to revenge themselves, and in Julie last they cast upon the plaintiff a scandall of incontinencie

in this manner:— Katherine Frost sometimes the plaintiff's servant and kitchen maid was with child by William Combre. The said Travers William and Edward Cotton draw the said Frost into the plott, seeking to charge the plaintiff to be father of the said Katherine's child with which she then went. Upon Satturday, 17 Sept. ult[imo], the election of a new Canon resident was to be made. Upon Thursday before 15 Sept. Travers went to Ashe, twentie miles from Exeter, where Frost dwelled. The next day being the 16 of Sept. he drew Frost to Colhampton<sup>a</sup> (some 14 miles from Ashe) where Bampton and his said wife dwelled; then Frost was to use his endeavour with his daughter, that she might fix this scandall upon the plaintiff, and to this purpose Frost is sent before to his daughter, the better to prepare her against M<sup>r</sup> Travers his comming; yet, notwithstanding all endeavours, she continueth to affirme that Combre was the only father of the child, and so Frost tould M<sup>r</sup> Travers, who afterwards threatned her, and promised her 100*l*, and then she is wonne to say what they would have her. He presentlie setteth downe in writing the accusation, in forme of an examination, in these words:—Katherine Bampton being asked by her father John Frost who begatt the childe she then went withall, she said her master the Deane of Exeter, Doctor Peterson, begotten in the parlour upon a Sunday, in the afternoone about 3 weeks before Christmas last; in witnes whereof I have hereunto sett my hand, the 16 day of Sept. 1631, and this I will speake before M<sup>r</sup> Chauncellor of Exeter; and the said Travers then gott a promise of her to come the next day to Exeter to make her confession before her deliverie, which she lookt for dailie, and she was brought to bed the Sunday following, being 18 Sept. She came to Exeter from Colhampton, 10 myles, on horsebacke accordinglie. The Chancellor of Exeter refuseth to intermeddle with the matter, then Joseph Martin the Officiale and Faulkner are ioyned; Faulkner brought her to Martin's house; M<sup>r</sup> Martin had prepared a notary

<sup>a</sup> Collumpton.

of purpose to make a present act of it, and soe did, and enioyned her penance att Colhampton, Falkner waited upon her att the New Inne and was to go home with her. This donne William Cotton was sent to the Deane the plaintiff, the better to bring him to this eleccion of Travers, but he pretendeth he commeth out of respect unto him, to shew him of the accusation, that he might defend himselfe, and he sheweth the plaintiff the accusation taken at Colhampton, before Frost and Travers under her hand, this the plaintiff tooke a copie of, and would not let goe till the said William Cotton sett his hand to attest it a true coppie. The next day she was delivered, and after she was delivered, to the minister of Colhampton and others in remorse of conscience, or at least in shew of repentance, she saith and confesseth that all which she had said against her Master the Deane was false, and that it was M<sup>r</sup> Travers his doing to draw her into the said confederacie. And, my Lords, to be cleare of this foule slander, and for repaire of his honor the plaintiff hath brought this bill before your honors.

M<sup>r</sup> Travers is called to appeare at the barre, and he appeared, and M<sup>r</sup> Recorder desired, he might attend his Councell, for that it would appear, he hoped, that M<sup>r</sup> Travers was not such a man as this bill would make him: and it was granted, soe hee went from the barre.

That he procured the King's letters to the Deane and Chapter, <sup>answere opened.</sup> Travers his and other mens letters for the next Canon's place that fell void: that at the reading of the said letters he had the greater number of elective voices: That he had noe such repulse as to conceive malice against the plaintiff: that at the first of August after this first election before he ever saw or knew Frost, or the said Katherine, or her husband, there was a common fame that she was unlawfullie begotten with child, and this by the plaintiff, and soe reported in the Assizes' time by persons of good worth, and the playntiffe or his freinds heard of it, and yet never complayned of it: That he went to S<sup>r</sup> John Drake's, and there he met with Frost, who tould him that his sonne in law Bampton had com-

playned to him that his wife was gotten w<sup>th</sup> childe by the Deane her Master before his marriage with her : Thereupon he came with Frost to Colhampton; it was in his way home. He came to his inne. Frost brought his daughter to the inne to the said M<sup>r</sup> Travers. She first refused to say the truth, because it concerned great men, and she was afraid she should be greatlie punished. The defendant tould her she must regard her soule, but when she had tould it in manner aforesaid, he then advised her not to publish it. She tould him that she was scited to appear before the Chancellor, but she feared she should be delivered before the time of her appearance. He advised her, therefore, for the better clearing of her conscience to goe to Exeter the next day, to confesse it before the Chancellor: that she came to Exeter and did confesse before M<sup>r</sup> Martin the Official that she was gotten with child by the plaintiff 3 weeks before Christmas, upon a Sunday in the afternoone, that this was registered and an act made of it, that the next day she was delivered, and in her extreame travell she charged the plaintiff onlie, and the next day she said as she was to appear at the day of judgment the plaintiff, the Deane her master, was the father of the childe; but the said M<sup>r</sup> Travers denieth that he wrote anie such words or lynes as are mentioned in the bill of complaint. And he doth not know whether M<sup>r</sup> Deane of Exeter be guiltie or noe of this crime, but leaveth it to sound prooфе; and to all the conspiracies, plotts, and misdemeanors charged he pleadeth Not guiltie.

M<sup>r</sup> Martin the  
Official his  
answere  
opened.

He saith that the time Katherine Bampton came to him to his house in Exeter was the first time he either saw or knew her; he knew not that she was to be examined till she came, and he sent for his ordinarie register, who being not found he sent for him againe, he was therefore constrainyd to use another. She said she was come to acknowledge her offence. She was after admonition asked by this Defendant who was the father of the childe, she said the Deane of Exeter, her master; an act was made of this presentlie, and penance enjoyned her. Out of respect he had to the Plaintiff he gave noe schedule of the penance, but went presentlie to acquainte

the Bishop of Exeter with what had passed, but he was not at leisure, but the next morninge he did declare unto him the whole matter, &c., and to the conspiracies, plotts, and misdemeanours he pleadeth not guiltie.

William Cotton saith that he gave Mr Travers his letters of commendation to the King's Majestie, knowing him sufficient for the place in question. That he knew not Frost nor his daughter. That he, out of good will to the Deane, shewed him the said note or wrytinge, for which the Plaintiff promised to requite him, but the Defendant did not expect this bill for his requitall; to the conspiracies, plotts, practizes, offences, and misdemeanours complayned of he pleadeth Not guilty. And Edward Cotton and Falkner plead Not guiltie.

She was present in Court at the barre and soe was Frost her father. Her answeres conteyned that she was drawen to accuse the Plaintiff onlie by the said M<sup>r</sup> Travers, that it was his plotting, that he drew her to it by faire promises, and by drincking to her in wine, that he bidd her name more then one time, for that none els would believe he could at once gett her with childe, but she refused: and he bidd her not to fear, for he was workinge for her good, &c. The marke of Katherine Bampton. She had no councell to her answeres that sett to his hand.

M<sup>r</sup> Bierlie declared that he refused to be of councell with her and her husband, because he sawe, after he had read it, that they had confessed all the matters charged in the bill.

He confesseth he was tould by her when he was a suitor to her that she was with childe by Combre, who was runne away about it: that he never heard her say anie other besides Combre was the father of her childe: that yet he was contented to marrie her and did, and denieth anie combinacion or confederacie, and that he ever tould Frost, his father-in-law, that she accused not anie other then the said Combre, and soe Not Guiltie. Arthur Bampton

That he is the father to Katherine, the wife of Arthur Bampton, John Frost that he is poore, that Bampton came to him and tould him his wife opened.

said the Deane her master was the father of the childe; and M<sup>r</sup> Travers came six weeks after and asked him about it, and this Defendant said it was true, as the said Bampton tould him: that the next day he went to M<sup>r</sup> Travers to Colhampton, and M<sup>r</sup> Travers paied for his horse and expences of the journey. That M<sup>r</sup> Travers pressed her to confesse the truth, that she did accuse the Plaintiffe to be the onlie father of the childe, and she named the time of the begetting the child, and a writing was made presentlie by m<sup>r</sup> Travers of her confession, whereunto they both sett their hands.

Proofes on  
the plaintiff's  
parte.

First were shewen the suspitions by the servants in the Plaintiff's house, that Combre the Plaintiff's brother's man gott her with child. She said, upon expostulation with some, that Combre gott her with childe, and proved that Bampton said he would marrie her though she had 20 children in her belly: and he did marry her a fortnight after Midsommer last. Combre, being at London with his master, was tould that Kate was with childe, and he stood silent, and ranne away from his master that night.

Then was read the King's letter. CHARLES REX. Trustie and welbeloved we greet you well. Forasmuch as it is to the good of the Church that free elections be made, these are to recall our late letters and leaving you to your free choice, withall charginge you to lay aside all faction against your Deane, and the present dignitie to be placed upon a person unstained. Given at Oatlands, 16 July, 1631. To the Deane and Chaperter of the Cathedrall Church of Exeter.

Robert Hall, being in companie with Edward Cotton at Baker's house, heard Edward say: If the Deane use anie course to disparage M<sup>r</sup> Travers we will finde such a matter against him as shall disgrace him to his best frends, and soe bespatter him as shall hinder his preferment for ever.

Joseph,<sup>a</sup> Lord Bishop of Exeter, saieth, he being present in the Chapter-house when Travers his letter from the King was read,

<sup>a</sup> Joseph Hall.

the Plaintiff saying he would bring the said Travers upon the stage, he heard the said Edward Cotton say these words: Then he will act his part too.

Hutchinson, the Apparitor, cited Katherine Bampton to appeare before M<sup>r</sup> Baldwin, and she said, Well, well, if M<sup>r</sup> Deane's brother's man had tarried in the country and used her well she had not come to this trouble and shame. She tould the deponent that she acquainted her husband with her being with childe before her marriadge with him, who said if she had 20 he would not leave her. The deponent was asked by M<sup>r</sup> Edward Cotton whose the childe was? He answered that she said, Combre's: but M<sup>r</sup> Cotton laughing said: Is not M<sup>r</sup> Deane the Father?

The Register of the Archdeacon of Totneis, 1 Sept. Martin the official and he kept court att Tiverton, and comminge from thence he said to the deponent that there was a cause of office thereabout that might yeild 20 or 30<sup>l*li*</sup>; and he saith that there have beene some differences betweene M<sup>r</sup> Edward and William Cotton, Travers, and the Plaintiff.

Bampton in his examinacion sweares that he never tould his father-in-law nor anie other that his wife said that M<sup>r</sup> Deane, the Plaintiff, was father of her child, and never heard her (he saith) name anie other than Combre to be father of it.

Agnes Warren. That 16 Sept. about 10 of the clock the same day the said Katherine did swear and protest to her, and wished that she might not be delivered of her childe, if anie other but Combre were y<sup>e</sup> father of it.

Katherine Bampton in her examination saieth, that M<sup>r</sup> Travers did perswade her to lay it to M<sup>r</sup> Deane's charge, and warranted her she should gaine 100<sup>l*li*</sup> by it, and promised her that her childe should not want, and that he would free her of the Court, and perswaded her to confesse M<sup>r</sup> Deane lay with her more then once or twice, that M<sup>r</sup> Travers, and Frost her father, and her selfe were all the companie, and thay had 3 pints of sack, and he forced her to drinke off the sack.

John Frost, in his examination, saith that she did denie it to M<sup>r</sup> Travers 3 or 4 times, and he bidd her drinke and asked her againe, and she said, What will you have me say, they are great men, &c.; that he said the first oath should stand and that it should be worth her 100*l*.

M<sup>r</sup> Travers his examination. That he came to Colhampton to be satisfyed by Frost of the trueth, but it pertained not to him, but as it was a popular action: that he bidd her drincke with such words; It is good to wash the boye's head and it will doe you noe hurt. That she said it was upon a Sunday when the rest were att church, that he did write certeine lynes but never wrote such, or anie the words or lynes complayned of in the bill (the writing it self was brought into Court and read and compared with the bill, and it was found that they onlie differed in these two words (and the) this was held periurie). That she said she was scited, but feared she should be delivered before her appearance, and therfore desired to discharge the truth before hand, and he wished her to come to the New Inne, in Exeter.

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In the Starre Chamber, 15 Jnnij, 1632.

The Deane of  
Exeter against  
Travers and  
others.

M<sup>r</sup> Martin in his examination saith he knew not the businesse before hand; yet saith he chose such an one to be his Register in speeding the act for more secrecie. It was confessed in their examinations and proved that they all 4, vizt. M<sup>r</sup> Martin, the two Cottons, and M<sup>r</sup> Travers mett 17 Sept. at a taverne in Exeter, that M<sup>r</sup> Martin went from thence to his house, and there mett Katherine Bampton, and spedd the act: that he returned to the taverne wher the other three remayned, and thence went to the Bishop of Exeter's house to declare it to him; The Bishop asked him why he would make an act of such a matter against soe eminent a person

upon such accusations? And it was noted by the Councell that this being supposed to be done by the Deane, the examination thereof (the Deane being a partie) belonged to the Bishop onlie. Edward Cotton saith he did not say positivelie M<sup>r</sup> Travers would take some desperate course to revenge himself, but he spake those words of his own conceipt onlie. William Cotton saith the Deane held the paper soe fast that he would not let it goe till he had a coppie.

One deposeth that he heard M<sup>r</sup> Travers say he would runne this course and put home this accusation to the Deane; and said that S<sup>r</sup> John Drake tould him, the Deane should not be soe forward about all men to seeke such accusations against another, for his man Frost tould him that his daughter was begotten with child by him: that this was the reporte at the last Assizes.

Frost being served with a Subpœna, he said he would talke with his master and consider of it; and a message was sent by M<sup>r</sup> Travers that she should stand stronglie in it, and it should be well enough.

M<sup>r</sup> Pecke the Vicar and preacher of Colhampton came to the said Katherine lyinge in chilbed the day after she was delivered of her childe, being the 19<sup>th</sup> day of Sept. He was her Pastor, and hearing that she did accuse her master the Deane of Exeter he thought good to aske her of it, and she said first it was her master, bút being put to it, if Christ should come into the chamber and aske her the question, Who was the father of the childe, Whom would you name, What would yo<sup>u</sup> saie? she answered I hope I should speake the truth. That presentlie after the Midwife m<sup>rs</sup> Dinharn talked with her, but after she had donne with her he asked her againe; and she said she had wronged M<sup>r</sup> Deane, and that M<sup>r</sup> Travers perswaded her to doe soe, and cryed out; that she puffed and blowed, and was sorrowfull for accusinge M<sup>r</sup> Deane, and soe he departed.

M<sup>rs</sup> Dinharn saith she talked with Katherine when M<sup>r</sup> Pecke was there, that she intreated her to speake to M<sup>r</sup> Deane for her, that she might not have too much punishment: that she said she had falsely

accused M<sup>r</sup> Deane, and that M<sup>r</sup> Travers perswaded her to it, but whether she hath wronged the Complainant M<sup>r</sup> Deane or M<sup>r</sup> Travers the deponent knoweth not.

M<sup>r</sup> Recorder  
for the defence. That William Cotton, Chauntor of Exeter, is a man of unblameable life, and knowne by the name of honest Cotton. Edward Cotton is Archdeacon of Totneis, and M<sup>r</sup> Travers a divine of good worth. That an offence of an high nature is here charged upon them, a conspiracie to lay a great scandall against another of their brethren, and more then that a man of eminent place and qualitie, and if guiltie of this, their punishment would be great; but because it is an harder matter to defend then to accuse, we desire to be heard at lardge, and then we believe that all these, or the most shalbe quitt, as M<sup>r</sup> Deane is guiltlesse. The fact was donne, there was a common fame a moneth before August, that this was donne by the Deane, it was in the mouthes not of the meaner sort onlie, but of Baronetts, Knights, Esqrs, Batchelors of Divinity, and women without number: there is a difference betweene a fame and a rumour. We doe not accuse M<sup>r</sup> Deane but defend our selves. In July it may be it was reported that Combe was father of the childe, but in those paines she praied that she might not be delivered if it were not the Deane's: That Jane Dinham, Peck, and 2 others were used to bring her to recant those words the day after, and this presumption doth as good as prove it, they denie to answere (being crosse examined) upon what promises made by themselves she did so retract. Frost upon his examination maintained the fame. She presentlie confesseth the whole charge of the bill; Bampton he saith as much as maie be for the plaintiff in his answere, and it seemeth M<sup>r</sup> Deane's money paied for there answere for he said M<sup>r</sup> Deane would give him money to pay for it. We hope now that noe inferences shall make these men guiltie.

Proofes.

S<sup>r</sup> John Drake of Ashe, in the parish of Axminster, in the County of Devon, knight, deposeth that he heard by the report of John Frost, father of Katherine Bampton, that she was begott with child by her master, M<sup>r</sup> Deane of Exeter, a moneth before August.

William Drake, Esqr: About a week before the Assizes in Summer last, John Frost in the hearing of this deponent and of divers others said that the Deane was the reputed Father of the base childe, and divers times he heard him report the same.

S<sup>r</sup> Thomas Prideaux, Knight and Baronett: That one asked Frost in this deponent's hearing, what was become of his daughter Katherine, and he said she kept the key of her master's chamber, and made his bedd and that she was begotten with child by her master, the Dean of Exeter: That whosoever boare the blame, the Deane had the game: And that she tould her sister that it was not Combre was father of the childe, but a greater man, and that this newes was in the mouthes of men of worth, though it came first from John Frost.

S<sup>r</sup> Edward Seymour, Knight and Barronett: That in Lammes Assizes for the Countie of Devon, and afterwardes there was a common and publique fame in Exeter and the Countie of Devon that the Deane of Exeter had gotten his maide with childe.

Prove the same (saith the Bishop of London) before the breach betweene M<sup>r</sup> Deane and M<sup>r</sup> Travers: the kings letter to recall the former, going downe in the middle of July.

29 July. Bampton was convented before the Chancellor in the Consistorie for incontinencie *ante nuptias, et voluntarie fassus est crimen*, and penance was inioyned, but not executed, because there was a mistake, viz. he confessinge that he married one that he knew to be with childe, before it was entred that he confessed the crime, and soe the penance for this mistake was remitted.

17 Sept. The accused the Deane before the officiaall M<sup>r</sup> Martin. 18 Sept. in her sharpe and bitter travell (saith Rose Skinner) she said it was the same man's childe, for whom I tooke my oath yesterday, and proved by divers, she said, It is my Masters, and said it oftentimes, being charged to wronge noe man: and that she gave God thanks when she was delivered, for that she had prayed she might not be delivered unlesse she spake the truth: and that she said, Upon a Sunday in the afternoone, the childe was be-

gotten, and upon a Sunday it was borne: and Dorothy Durdan often perswaded her to say the truth.

M<sup>r</sup> Pecke the minister of Colhampton, Jane Dinham, Durdan, and one other, were employed to make her retract: as appeareth (saith M<sup>r</sup> Recorder) by their refusinge to answer upon their crosse examination to the defendants 11 and 13 interrogatories: which were read now in court: 11. Item did not the same Pecke, besides the terror of judgement before God terrefie her with corporall punishment. What was promised by you or anie other to be given her for a reward, did not you say that you or some other bodie, and who would be a freind unto her? 13 did you write anie letter, did you use anie meanes to gett her to retract what she had spoken: what were y<sup>e</sup> meanes, who sett you on worke? To these interrogatories, saith M<sup>r</sup> Recorder, these deponents refuse to make anie answer, although it concerneth themselves and their depositions were read: Dorothy Durdan to the 11 and 13 Inter[rogatory] she cannott depose; and soe for Jane Dinham and M<sup>r</sup> Pecke.

Frost confessed upon oath before the Bishop of Exeter 27 Sept. that it was true his daughter did accuse M<sup>r</sup> Deane; 5 Octob. he retracteth being tould, in the meane time, that he was undonne, by William Drew.

The examination of Katherine Bampton. This needed not, seinge she had confessed it all before.

John Watts the Under-sheriffe of Devon had an attachment against Falkner, and Bampton sollicited to get a warrant against him.

Eustace Craddocke one of the attorney's clerks of this court saith that Bampton and his wife brought their answer readie drawen to him and desired him to engrosse it, and said he should have money when it was donn of M<sup>r</sup> Deane to pay for it.

Then were read divers witnesses who testified of the good names and reputacions of William Cotton, Edward Cotton, m<sup>r</sup> Travers, and m<sup>r</sup> Martin, and that William Cotton was knownen by the name of the honest Chauntor.

Then M<sup>r</sup> Recorder came in particular to shew what was against everie of these Defendants severallie. William Cotton inquired the truth of the report: he denieth to be an actor: he delivered the writing to the Deane. For Edward Cotton there are but meane inferences; that he the said Travers would act his part, this was before the Bishop. For M<sup>r</sup> Martin the officiall, that he and the Register were at Colhampton, and Tiverton, and he said there was a cause of office which might be worth 20*l*: this was before he was wonne to accuse the plaintiffe, by the bill: he could not refuse this voluntarie confession of Katherine Bampton; we could have proved there was a cause of office more worth, but to save nameing, this is not in the bill; and for the Bishop of Exeter's jurisdiction (as is confessed by M<sup>r</sup> Martin) if the offence be supposed to be donne by the Deane, then the matter is to be examined by the Bishop: yet if this be notorious, the jurisdiccion is not to be examined, that they dyned at M<sup>r</sup> Cottons, and then went to the taverne, and he went home and brought an account of it because he came to them againe.—For speeding the act by another notarye, he sent for the Register Giste, but the messenger returned without speaking to him, but gave him this answere that he could not be found: soe he used another, which speeding of an act hath been warranted. What is testified of Edward Cotton, that he said he would bespatter m<sup>r</sup> Deane, this is but one witnes. For Faulkner he sweareth he did pay the charges out of his owne purse and not his masters: and yet if M<sup>r</sup> Cotton should enquire too much and reioyce at his enemies falling, I conceive though it be not honorable yet it is not a crime pu[n]ishable in this court: and Faulkner might be desired to goe to such a place by his master or anie other, and very innocentlie. For M<sup>r</sup> Travers, he is a divine, a clergie man, a man of good life and learning, therefore, I hope nothing shall stick upon his person, but what is soundly proved; if Frost and his daughter be good witnesses and her husband, then it is impossible to defend him. Katherine sweareth M<sup>r</sup> Deane was the father of the child, and soe is forsworne: 18 Sept. and two houres 19 Sept. she con-

tinueth in the same till M<sup>r</sup> Dinham came to examine her, and then she confessed all. Arthur Bampton he confessed he had carnall knowledg of her bodie before marriage *fassus est crimen*: if she had twenty children in her wombe he would keepe them all; he made an indiscreet choice: he was employed by M<sup>r</sup> Deane the plaintiff: It must be considered what is against M<sup>r</sup> Travers out of his owne mouth, My Lords I conceive he hath ingeniously confessed as much as they have proved against him and much more. For Frost he saith it was through M<sup>r</sup> Travers his perswasion and instigation, and soe much I have said he confessed before my Lord Bishop: He hath abused both the plaintiff and the defendant: that this suit for adulterie is populare, and by the common law one may conferre with his witnesses but not draw them *ad mentiendum*, and by the lawe if there be a common fame of a felony anie man may arrest him, that is the felon. M<sup>r</sup> Travers did not beginne this fame, he was no hastie stirrer or promoter of it, and though he should doe that which is onfitt, yet it is a question whether it be heere punishable.

Then said my LORD KEEPER: What say you M<sup>r</sup> Recorder to the denyall of the wryting? Saith M<sup>r</sup> Recorder, the answere to the interrogatory is that he did not write anie such words or lynes as are complayned of in y<sup>e</sup> bill, but he did write some lynes: There be manie reasons to be given of this: 1. It is not to be conceived that a Clergie man should, after he had declared all that was against him, now mince to noe purpose, he had sent the very originall to M<sup>r</sup> Deane himself. 2. The mistake is in the interrogatorie itself which putteth the question, Did not you contrive this wryting *in haec verba*? He doth not answere, that he wrote noe such words or lynes as are complayned of in the bill, but he saieth he did write some lynes, and he was advised if these were punctually sett downe in the bill, and the writing did not agree with them, he might denie them. 3. He did not write any of the words or lynes complayned of; they cannott be the same in the same wryting. The true note is with their marke. This is with their names.

And for Edward Cottons using of words of revenge against the Deane: this was in Julie before the defendants knew of Katherine Bampton being with child: it is not proved that he knew of the same till Sept. and there are manie proofes of the same before the 16 of Sept. 16 witnesses at least.

For three of the defendants Bampton and his wife and Frost her s<sup>r</sup> John Finch father I shall need to say litle of them, for a whore and 2 knaves <sup>replyeth for</sup> the Plaintiff. and soe lett them goe: but I wonder their Councell should take such exception against them, for Travers kept them companie in tavernes; but they prove the same onlie about a moneth before August, not certeinlie; and not one of their witnesses but bringe it from Frost. M<sup>r</sup> Recorder hath taken all the advantage he can, but it is the conjunction of all these constellations that make and render these men guiltie. The same was about a fortnight before Lammas, about fortnight. Att this tyme these words were spoken that they would finde such a matter out as should bespatter the plaintiff: and the contestation about the Kinge letters is at this tyme. For M<sup>r</sup> Travers he confesseth ingenouslie; but what he knew must be proved against him, not to speake of his grosse equivocation in denying the wryting. What Bampton said that he should have money of M<sup>r</sup> Deane, I know not how this should stick upon Mr. Deane, or anie other; and besides it was not upon oath for aught appeareth. She gave God thanks she was delivered seeing she had prayed that she might not be delivered if she spoke not the truth. It was tyme for her to say soe, seing she knew what she had spoken falselie. For the denyall of Peck and the three others to answere their 11 and 13 interrogatories, they did denie what is interrogated, though this (as manie other things) is not well sett downe by the Clarks. And for Frosts retractation, he was not served with the subpoena when he retracted, though the processe be dated 17 Oct., and what relation have we to draw? For Cotton the honest Chaunter, this is rather a testimonie that proves him a good fellow, then any wise his gravitie, as the usuall manner of speaking is. Travers acquainted him with his going to Frost

to enquire of the matter. He had conference with Travers, and he delivered the paper to the Deane; and indeed he held it fast and would not lett it goe till he had a copie: this was the most dangerous plott; if Mr. Deane had suppressed this, then it would serve their turnes to keepe the Deane's nose under their girdles alwaiies. For Edward Cotton though there were no witnesse to prove the words that they would bespatter him, yet to rejoice and laugh at such a thing, and to enquire jestinglie, Is not M<sup>r</sup> Deane the father? Doeth this become a Churchman? For Falkner he gave verie faire attendance upon the gentlewoman. For M<sup>r</sup> Martin, Travers tould him of a delinquent would come to be examined before him: and yet denieth that he knew of her comminge: this is equivocation: and why is not Gyst the Register a fitt man to be used? not to dispute whether the speedinge of an act by a publique notarye be enough, this perteyned not soe much to his jurisdiction as to the Bishop: yet he maketh it an act, and an act of one day. But for Travers if this were the truest fame that ever was, yet he is to be sentenced, there is a popular action it is true, but his giving of money and preparing the witnesses, this if there were noe more is enough against him.

The Sentence.  
Lord  
Cottington.

My LORD COTTINGTON: I hould Travers a man transported with malice against M<sup>r</sup> Deane of Exeter, and though these people, the daughter and her father, and husband be men of ill fame and say and onsaie what they please, yet they are to be taken against an other, when in the same they doe accuse themselves, and especiallie such an one as converseth with them, as Travers drank wine and tobacco with Frost and drank to Katherine Bampton and gave money to the father for himselfe and to hire her an horse. He sent Falkner to the New Inne to meeete her, and she was conducted by Falkner to M<sup>r</sup> Martin's house: and then his equivocation in denying the wryting, I doe therefore hould him to be guiltie with Frost and his daughter of this conspiracie; he shall therefore pay 500<sup>l</sup> to the King and 200<sup>l</sup> Dammage to M<sup>r</sup> Deane and make recognition of his fault and wrong donne to M<sup>r</sup> Deane heere and at Exeter. William

Cotton and Edward Cotton: I doe not find such proofe against them as to give my sentence against them: William Cotton, he knew of the goinge to Ashe and carried the wryting to M<sup>r</sup> Deane, neither doe I condemne Edward Cotton upon inference on those words and inquirie of his; it doth not appeare: and, for Martin, I shall not sentence him neither, he sent for the Register, but the messenger deceived him, for aught appeareth he was too sudden. Falkner was Cotton's man and is not guiltie; but Frost is guiltie. He tooke Travers his money and he gave occasion to Travers; therefore he is to stand in the pillory att Exeter with a paper declaringe his offence in his hatt, and att Colhampton and to pay 100*l* fine to the king. I doe not finde what Bampton hath done worthy of my sentence, he hath cleared M<sup>r</sup> Deane, his punishment is enough, he hath married a whore. For Katherine his wife I hould her fitt to be made an example of soe foule an offence. She shalbe therefore well whipped at Exeter and Colhampton And I hould M<sup>r</sup> Deane notwithstanding all this to be cleare and a worthie man, and soe lett him be declared by the sentence of this Court.

M<sup>r</sup> Deane of Exeter hath great wrong, and<sup>a</sup> donne him by some Lord Heath. persons of qualitie. There are but 3 defendants of all these to be punished: M<sup>r</sup> Travers, who though he deserve well otherwaires, yet this he hath donne very ill, he went purposelie to Colhampton to seeke it out and this he perswaded them to, and that by promise of reward; he prepared the accusation and wrote it downe, he mett her and sent unto her at Exeter, and when he had donne this denied it in substance as grossely as ever anie did, I think, and he dranke wine and tobacco with them. He is grossely guiltie of the conspiracie; therefore I think him worthie to pay 50*l* to the King and half as much to the Deane for his dammages 250*l*. For the Cottons I dare not say they are guiltie, I dare not censure them: nor Martin the officiall, he tooke her confession in private, if this be the course I judge it not: therefore I will leave them and neither

<sup>a</sup> Sic.

censure or acquite them. If they are guiltie let their conscience accuse them or acquite them. For Frost, he is a poore man and angled after some profit. I would have him to stand upon the pillory, for he is guiltie of raisinge the scandall, and to acknowledg his offence in words, as well as by a paper in his hatt and to pay 100<sup>li</sup> fine to the King. For Faulkner, he is to be acquitted. Katherine Bampton is guiltie of the conspiracie, and she is to be whipped at Exeter and Colhampton, and in the open streets, and committed to the House of Correction. For her husband, I think he hath done nothing worthy to be sentenced, but donne Mr. Deane right, he had an hard bargaine of it, and therefore I free him.

Lord  
Richardson.

This is a great cause. All causes that come here are criminall, but not criminall alike. Heere are 8 defendants; 2 of them I shall acquite, Arthur Bampton and Falkner. Thcre is nothing in y<sup>e</sup> world against Bampton, and he is indeed punished sufficientlie, and Faulkner he paid 10<sup>d</sup> or 8<sup>d</sup>, but is not guiltie of the conspiracie; but I hould here is a conspiracie by Travers and Frost and his daughter. A conspiracie there is in taking away a man's life or good name. But how doe you prove these 3 guiltie of it? These two, Frost and his daughter, are good witnesses against M<sup>r</sup> Travers, that ioyned with them and kept them companie. Travers he enquireth of it, how? He perswadeth with Frost to draw his daughter to accuse M<sup>r</sup> Deane. Then they come to Colhampton: there he perswadeth her to accuse the plaintiff, and promised her a reward and 100<sup>li</sup> in her way, and thus the conspiracie is made up; it is agreed upon; she sett her hand to the writing which he drew. Then he pursued it, and would have her affirme it upon her oath. He kept companie with her, and taketh beere and wine and tobacco frellie in their companie, and dranke to her and made her tipsie. Frost he confesseth it, and soe doth his daughter. For Travers, I hould him guilty of this conspiracie of subornation of periury in Katherine Bampton and his owne equivocation, nay playne periury; for this, therefore, I will fine him 1000<sup>li</sup>, and for the dammages, in some causes there is reason the dammages should be greater to the partie

then the fine to the King. There are 2 things next unto life that are to be esteemed *libertas* and *estimatio* or *reputatio*: *crudelis est qui negligit famam*. I think, therefore, he is worthie to paie 500*li* dammage. M<sup>r</sup> Deane may saie, it was not mine enemie that did me this wrong, but thou, my companion. It were fitt M<sup>r</sup> Travers should doe as he that scandalized my Lord Dyer, aske forgivenesse upon his knees. Therefore let him make his confession that he hath wronged the plaintiff and falselie accused him, and this heere in Court and at Exeter. This scandall extends not only to M<sup>r</sup> Deane, but to the Church, and to religion; it extends to his Ma<sup>tie</sup>. Never was King more carefull to preferre worthy men, and yet if this were true, it would redound to the King's dishonor that he should place him in this Deanery. I shall fyne Frost 500*li* to the King and imprisonment during the King's pleasure, and let him stand upon the pillorie at Exeter with a paper in his hatt, and make his recognition of his offence in wronginge and falselie accusinge M<sup>r</sup> Deane, heere and at Exeter. For this woman, Combre was the man. Without doubt they lived wantonlie, there was the ground of their naughtines, then she is to goe to the house of correction, to be whipt belowe at Exeter, and heere to if you think fitt, and lett her remaine a year in prison till she can finde securitie for the good behaviour. I doe not beleive that M<sup>r</sup> Deane is guiltie. I know his life and conversation out of question is cleare. I think noe man would touch her of his ranck, and she confesseth M<sup>r</sup> Deane never spake a word to her though she were his servant. For William Cotton and Edward Cotton: William Cotton was acquainted with the businesse, he gave a copie of the writing to the plaintiff to his best remembrance. Edward Cotton hath more against him, the word bespatter him: and he did aske this question, Doe they not say it was M<sup>r</sup> Deane? He knew of the act when it was made, but I shall not hould these to be sentenced, and yet I shall not discharge them, *non liquet*. For Martin, the official: he was very hastie; he might well have forborne makeing of an act, but I shall not sentence him neither nor acquite him.

St Paule, in the Epistle to the Galathians, as I remember, gives this admonition, there was some contention then in the Church of Galatia, *If you bite and devoure one another, take heed that you be not consumed one of an other.*<sup>a</sup> Soe there hath been a contention in this Church of Exeter; there is no speedier cause of ruine, and to make way for men ill affected to break in upon them. There hath been snapping amongst them both on the one side and the other. I made it up betweene them once, but they breake out before they came home, out of which hath risen this stincking thing. In the primitive Church the Apostles and others were bitten and devoured, but not one of another. The Arrian Heresy plotted the same accusation against Athanasius as was heere falselie laid upon the plaintiff, but that was not one of another. But this is. I should not have wondred if it had beene by a Papist against a Protestant, or by a schismatick against a regular, but one against another—one in the bosome of the Church against another of the same Church! The Cottons, they are the sonnes of a reverend bishop that lived there, therefore they are to greive with their Deane and bemoane him, in that Mr Deane is the sonne-in-law of this reverend bishop; but I am sorrowfull that this worthy man should be thus wronged and defamed. For Travers, I shall beginne with him. He was transported with malice against Mr Deane. He sought for this place in an uncanonicall order (not that the King may not write to a Church for a worthie man, but it is ever best to be left to free election, as the King's Ma<sup>tie</sup> did write most graciously, and I could desire that this Court should present unto his Ma<sup>tie</sup> in behalf of this Church an acknowledgment of his gracious wrytinge). I hould this man guiltie, with Frost and his daughter, of this foule conspiracie, and I fyne him 1000<sup>li</sup> because he is a Churchman. I will fyne him double whatsoeuer a lay man shall fyne him. For damages he is worthy to pay 500<sup>li</sup>, but I sett 250<sup>li</sup> and to make his publick acknowledgment in this Court and at Exeter of his wrong

<sup>a</sup> Gal. v. 15.

donne to Mr Deane. For Frost and his daughter—like syre, like whelp—his fyne 500<sup>li</sup>, an yeare's imprisonment, and what els is laid upon him, and the like upon his daughter, to be whipt at Colhampton and at Exeter; but that it is 10 myles I have her whipt from the one to the other: Seinge Bampton hath married this woman I cannott pittie him, let him enjoy his marriage! William Cotton and Edward Cotton: I never saw Edward but once; William never. I am very sory they came soe neare the brink; under the *non liquet* I will leave them. For William I heare he is a good houskeeper, and that in as clergie-like and church-like manner as maie be; but when they come to bite on another, they are in daunger to be devoured one of another; I cannott acquitt them. And, for Edward, I see nothing to commend him but his good carriage in other things. I shall condempne Martin thus far for being soe quick in his sentence, but not to be censurable in this Court, because this is thought to the course, there is noe canon for it. I therefore find fault with him, but do not condemne him. For Falkner, he is a meane servant, he conversed with her in a meane manner, and with a base woman, but is not guiltie of this conspiracie.

These were but short. Lord Wimbleton differed in his scentence, Lord Wimbleton.  
and fyned Travrs 300<sup>li</sup>, and the Cottons 100<sup>li</sup> a peece. The Earle Earle of  
of Danby agreed in his sentence with my Lord Cottington; Bridge- Danby.  
water with my Lord Cheife Justice Richardson. Earle of  
Bridgwater.

Here be 8 defendants. Mr Deane is falsely accused, the maine Earle  
operator is Mr Travers, I fyne him with my Lord Cottington; for Arundell.  
dammages but 150<sup>li</sup>: Martin 100<sup>li</sup> fyne: for Falkner and Bampton  
I quitt them: the Cottons I doe not sentence; but for Frost and  
his daughter, I leave them with the highest punishment. For the  
cause, I have not heard such obscene matter. That these men being  
divines should thus scandalize an eminent person of their owne  
coate, this is dangerous. Let me speak a litle divinitie, though I  
am no divine. They are *Pastores ovium*; they should attend their  
three *Pasceres*: *pascere vitâ, pascere verbo, pascere exemplo*. Love

God above all, and your neighbour as yourselfe, and God send you better consciences.

Lord Privy  
Sea

July 16, not a word, not a fame upon m<sup>r</sup> Deane; but at S<sup>r</sup> John Drake's, which is most grosse and most false. For m<sup>r</sup> Travers I conclude him guiltie of the conspiracie; I condemn the Cottons and m<sup>r</sup> Martin, and I must lay a fyne of 300*l*<sup>i</sup> upon Martin for dealing soe iniudicially. He was the officiall, but herein inofficiall: He must not take a voluntary confession in such a sort against soe eminent a person that the first word must stand in law it is true; and this is an act of prevention, that after it no purgation can be made, nor anie defence. For all the rest of the fynes I concurre in all that are sett and all other things sentenced. Falkner & Bampton I cleare; but for m<sup>r</sup> Travers I cannott sett lesse than 1000*l*<sup>i</sup> fyne upon him, and for dammage, fame is more precious to him then life, therefore 500*l*<sup>i</sup> damages.

Arch Bishop  
of Yorke.

I remember this of the ould Lord of Hundson,<sup>a</sup> when he was angry with any of his servants, he would say:—I will hang thee; nay, I will marry thee to a whore; this is great punishment, then, upon Bampton, and him and Falkner I sentence not; but what I doe not to him I leave upon his master. One of the Cottons, I think Edward, was questioned for indiscretion in calling the Maior and his brethren fooles, in his Sermon on this text:—Oh yee fooles, when will you be wise? They are bound by their oathes to yeild reverence to their Deane, but is this reverence to laugh and iest at his soe deepe a wronge and false accusation? They have donne the contrary. But for Travers in him it is a most malitious and desperate practise against m<sup>r</sup> Deane to bring him out of favour with the best frends he had. I acknowledge this cause hath bin worthily heard. For Martin I cannott excuse him, I shall condempne him & sentence him: he ought not to doe such a busines in his chamber; they must not be chamber acts: he is in some measure guiltie of the offence though not guilty of the conspiracie, yet he was an ayder

<sup>a</sup> Hunsdon.

to lay it upon the Deane. I sett on him 100<sup>li</sup> fine, and could wish he were suspended from his office. For Travers himself my highest censure, 1000<sup>li</sup> fine, and for dammage 250<sup>li</sup>, but to make publique satisfaction heere before your Lordships, and at Exeter, of the wrong donne m<sup>r</sup> Deane, and withall, care to be taken in drawing the sentence, to doe M<sup>r</sup> Deane all the honor and right that may be. For Frost and his Daughter I agree with the greatest punishment.

I doe desire it be presented to the King (that motion of y<sup>e</sup> Lord Lord Keeper. Bishcp of London) that we take comfort to see the King's gracious Letters. M<sup>r</sup> Deane is absolutelie innocent and falsely accused: if all these accusations and retractations were out of the way, it were absurd to charge him with anie thing out of their mouthes: that he is a reverend and an eminent Churchman is cleare, and the sentence to be so penned. For M<sup>r</sup> Travers, he is exceeding foulely guilty of perjurie and subornation of perjurie, besides the conspiracie; we may justlie sentence him for this donne in Court, when a man shall sweare against a writing for (in and the<sup>a</sup>). For y<sup>e</sup> Cottons, I heare them to be honest men, *nemo repente fit turpissimus*. Martin I cannott condempne for the conspiracie, but that he was too hastie. But Falkner is in noe crime, nor Bampton; but for Frost and his daughter, they are guiltie cleare, and worthie to be soe punished with the highest; and for Travers, I fyne him 500<sup>li</sup> & dammages 250<sup>li</sup> with my Lord Heath and acknowledgment of his fault at the barre and at Exeter.

<sup>a</sup> Because these words were left out. See p. 160.

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In the Starre Chamber, 21 Junii, 1632. *post Clausum Termini.*

THE LORD KEEP[ER]S SPEECH TO THE JUDGES THAT WERE  
TO GOE IN CIRCUIT.

My Lords the Judges,—The time draweth neare that you are now to enter upon your severall circuits, before which I am, according to my place and dutie, to declare unto you his Ma<sup>ties</sup> pleasure in four things especiallie. I have often spoken of those things that appertaine to the administration of justice in assizes and sessions, for which cause I maie omitt to speake much of those arguments now, and come to that, in short, which I have in commaund from his Ma<sup>tie</sup>.

First, his Ma<sup>tie</sup> is informed that papists and recusants that have great estates in the countrie have the greater favour, contrarie to that which is right, which his Ma<sup>tie</sup> would have you to looke unto, and accordingly to instruct the people of your counties in your charges.

The second thing his Ma<sup>tie</sup> would have you to regard and to commend to noblemen and gentlemen in the counties is, that you informe them of the grounds and reasons of his Ma<sup>ties</sup> now present proclamation, readie to come forth, commaunding their repaire to their houses in the country, and not to lye about the citties of London and Westminster, and the places adjacent: and this is necessarie in these daies, wherein men dispute upon proclamations, whether they should be obeyed. You know that such a thing as the pleasure of the King made knownen in this Court was sufficient, but I perswade my self, for the grounde and reasons of this his Ma<sup>ties</sup> commaund at this time, you know better then my self what they are: yet for the present occasion I shall name some of them.

Before 5 E. 2 the subiect was at libertic to goe whithersoever he would within the realme or without; but afterwards it was con-

sidered that every subiect is bound of right to defend the Kinge and the Kingdome, and therefore the King, by his wrift of *ne exeat regnum*, may restraine men from goinge beyond the seas, for this it is cleare; and there are a multitude of presidents in auncient tymes that Kings of this realme have restrained their subiects from going into other parts beyond the sea, and the least punishment on such as went, if they returned, was fyne and imprisonment; if they did not returne, such were punished by seizure of their lands and goods.

And soe there are a multitude of presidents whereby the Kings of this realme have, upon due considerations, commaunded their subiects to dwell at their owne houses. 23 E. 1. 11 Close Rolle, the inhabitants of the Cinque Ports removed out of the townes for feare of the enemy and warrs threatned, into other parts of the Kingdome: and a wrift went out to seize their goods that removed. 11 E. 3, a wrift went out commaunding the inhabitants of the Isle of Wight not to remove from out of the said island; and another to the men of the same island 15 E. 3, numero 23; 21 E. 3, *rotulo Francie*, there is the like sent to the Isle of Purbeck. 3 E. 2, there is an originall awarded to the Sheriff of Cornwall, commanding him to restraine the inhabitants by imprisonment of their bodies and distresse of their goods to abide in the countye. 6 R. 2; 22 E. 3, *rotulo Francie*, a commaunde that those that have anie office or rule neare the sea should withdraw themselves to their places and lands neare the seas, and that they goe not from their said howses and offices: and men have beene commanded to keepe their habitations and residence. 21 R. 2, Close Roll, part 1, numero 15, manie were going out of their townes to dwell other where, because of the depopulations made in manie townes, and there is a writte that none, poore or rich, should alter their habitations. 30 E. 3, numero 13<sup>a</sup>. The towne of [Seaford], in Sussex, was much wasted with the plague, and the inhabitants were poore; and one Ashton<sup>b</sup> had divers houses there, and was about to pull them downe, and build in an other place; and a wrift went downe to prohibit men

<sup>a</sup> Properly Membrane 13.

<sup>b</sup> Jacobus Archer de Assheton.

to remove, and especiallie to the said Ashton, and that he should not pull downe his houses, by which it appeares that when there is a public inconvenience, or other good considerations, the King may command men to keepe at their owne residence.

The reasons [to] award a *ne execut regnum* are good in this case, every man is bound to defend the King and the kingdome: againe, if men may be permitted to remove to what places they will, then if 10 may doe it 20 maie, and soe the countrie shalbe weakened in respect of armes and defence and in respect of justice, when the deputie lieutenants and great men be removed and no man left in the countrie to governe, the people they are stronger then the meane officers, soe that there wilbe noe meanes to resist rebellions or great ryotts, and such have been now adaiers even in nature of rebellions, therefore this course is fitt to constraine them under due punishment not to neglect their countries. Freeholders should be alwaies attendant upon the sheriffe for the defence of the countie and to doe their services, and justices of peace should be at home to doe justice, and it falleth out through this their being att London oftentymes, that though there be manie justices of peace, yet there are but fewe to doe the service: and though there be manie freeholders, and the service is wont to be layd altogether upon the meaner sort, yet none are excused from tryalls of jurie and serving in juries under the degree of a noble man; and this is speciallie to be regarded by you Lordshipps that you see the sheriffs doe returne the best and most able freeholders; soe shall the Kinges service and justice to all sorts be the better donne. Now it is plaine those gentlemen that make their residence heere in London forfeit their issues<sup>a</sup> in the countrie, and the common wealth in respect of justice disadavantaged. The sheriffe of everie shire takes his oath to be present in his countie and there dwelling: and justices of peace take such an oath that if they be non resident they cannot performe, it is noe discharge from their oath to live at London; but they remove hither to London,

<sup>a</sup> i. e. are fined for not serving on juries.

where they must of necessitie live idle; they cannott governe heere, that the Charter of London inhibiteth; and what doe they, their wives and servants? Themselves goe from ordinaries to dicing howses, and from thence to play howses; their wives dress themselves in the morning, visite in the afternoone, and perhapps make a journey to Hide Parke and soe home againe: their servants to play howses, brothell howses, drunkennes, to anie vice, soe that this appeareth to be an offence against manie lawes, and verie hurtfull to the common good, it is therefore a great and a gracious providence to take care to prevent it as his Ma<sup>tē</sup> doth. I pray give the countries warninge of this, and his Ma<sup>tē</sup> will give noe more warninge in this kinde, but expecteth all men to be lefft without excuse by this his proclamation, if they offend against it.

There is an other, and that is for the observation of Lent and fish daies, touching which likewise he will give this as his last warninge, by his proclamacion readie to be published: and this noe doubt to observe is the auncient custome of the realme: some pretend that one meate is not holier then an other, and some that their stomacks will not endure fish and therefore they are to be excused; but now soe much light is discovered by the Gospell, that meates are not holier one then another, and that this is ordeined in policy and the publique good in diverse respects, their stomacks will not beare it, but they can sitt all day long att sack and tobacco, nay I have heard of some that must needs drink tobacco, on the bench: but if I understand of anie such heereafter, they shall not sitt upon the bench any more. Some pretend that there is not fish enough, it is truth that the scarcitie of fish commeth by the discouragement of fishermen. The King therefore hath verie providentlie sett out this proclamation at this time, that men maie not pretend shortnes of warneing, but have fitt time to furnish themselves, and the fishermen to provide that there may be plentie. The unsufferable resort and residence of multitudes to the Citty of London hath heretofore been one meanes to make fish the scarcer. This is intended to be remedied, and commaundement shalbe given to the Lord Maior and

Aldermen that they shall see the fishmongers sell at reasonable prices; therefore your Lordshipps are to give a strict chardge and warning, that the offenders against these good lawes and proclama-tions shalbe strictlie dealt withall, both here and in other Courts, and you in your assizes are to deale strictlie with them.

Another thing there is to be remembered, that whereas his Ma<sup>tie</sup> lately sett forth his declaration in a few leaves, conteyning certeine orders for the execution of the lawes against idle vagrants and rogues, and execution is made in one countie and not in another, now, unlesse execution be done in all, it will but drive them from one countie to another, therefore you are likewise to inforce this upon the justices of peace, and other officers, and take care it be observed.

And one thing more you are to looke unto in the midle shires of the kingdome that you suffer noe inclosures tending to depopula-tion.

For all other things you are to doe universall justice that his Ma<sup>tie</sup> maie have honour and his people comfort and quiet by your industry.

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Samuel Travers, clerk, came to the Barre and made his acknow-ledgment, as followeth : I, Samuel Travers, clerk, doe heere sincerelie acknowledge that I have offended God and Robert Peterson, D<sup>r</sup> of Divinity, and Dean of the Cathedrall Church of Exeter, by conspiring and procuring the said Deane to be falselie accused of the great and heinous cryme of incontinencie, to the scandal of his person and calling, for which offences I am heartilie sorrie, and do crave forgivenes of God and M<sup>r</sup> Deane for the same. And desireth their honours' favour concerning the perjury.

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## PART II.—HIGH COMMISSION REPORTS.

In the Court of High Commission, Thursday, 20<sup>th</sup> Octobris, 1631.

|        |   |                     |
|--------|---|---------------------|
| Before | George, Archbishop of Canterbury.   | Commis-<br>sioners. |
|        | William, Bishop of London.  |                     |
|        | Thomas, Bishop of Coventry and Lichfield.   |                     |
|        | Theophilus, Bishop of St. David's.  |                     |
|        | Francis, Bishop of Norwich.   |                     |
|        | John, Bishop of Rochester.  |                     |
|        | Sir Dudley Digges, Knight.  |                     |
|        | Sir Henry Martin, Knight, Doctor of Law.  |                     |
|        | Sir John Lambe, Knight, Doctor of Law.  |                     |
|        | Sir Nathanael Brittaine, <sup>a</sup> K <sup>t</sup> , Doctor of Law.<br>Doctor of Law. |                     |

The cause against Samuel Pretty, clark.<sup>b</sup>

- 1 Article. That the said Samuel being a minister was commonly reported for the space of two yeares last past as a scismatycall man.
- Answer. He confesseth himselfe to be a minister but denyeth that other parte of the article.
- 2 Article. That he had within 12 months last past preached in the church called St. Michael Pater Noster Royal, London, without licence of the bishop of that diocesse.

<sup>a</sup> Is this a mistake for "Brent"?

<sup>b</sup> This may be the same man who was mentioned in the Westminster Assembly on Nov. 23, 1643, as suspected to be a notorious Antinomian. *Lightfoot's Works*, xiii., 62.

- Answer. He confesseth that he hath preached in the said church, and that he had licence from the late Bishop of London.
- 3 Article. That the said Samuel in his sermon there delivered these erroneous doctrines and assertions following, viz.: That Christians cannot as touching their reconciliation with God be too secure, nay, they ought to singe all care away.
- Answer. He saith that he hopeth these words may be spoken, because a favourable construction may be made of them.
- 4 Article. That the said Samuel affirmed, that a christian or a believer ought not to be sorrowful for his sinnes nor be grieved for anything, noe, though he sinne soulely.
- Answer. That he handling, in his sermon, a point of comfort to believers in and through Jesus Christ, he affirmed that all the effects of sinne are taken away from the believers, but he saith that they are not by themselves delivered from these effects of sinne, sorrow, trouble, and death, but by Christ, and he confesseth he affirmed all those words articulated except those last mentioned; 'Noe, though he sinne and that soulely,' and he added that those whom God loveth he loveth to the end; and that Christ hath deserved that afflictions in themselves evil may be made good to his elect.
- 5 Article. That the said Samuel affirmed, that a believer is as righteous as the law itself.
- Answer. He answereth, not in himself, but is so in God's account, God himself having made him righteous by his Sonne, and he saith that he meant not out of those words of the apostle, Col. 2, 10, to maintain any of the old Pelagian errors.
- 6 Article. That the said Samuel afterwards in private conference with another minister did affirme that justification and salvation differ not and that this is the doctrine of the Church of England.
- Answer. He confesseth that presently after his sermon ended a certaine minister questioning with him about his sermon or parte of it, he did affirm that justification and salvation are all one by the doctrine of the Church of England, and he conceiveth he said the truth for that the homily of the Church of England concerning justification

is called the homilie of salvation. All which he did submitt to the judgement of this court.

SAMUEL SHAW deposeth that he hath heard the said Samuel Depositions Pretty was accounted a schismaticall man, and he saith in his sermon at Pater Noster Royall he affirmed that Christians cannot be carelesse enough as touching their reconciliation with God, which doctrine this deponent disliked for that it crossed what he had ever learned in this point, and he hath heard that others of his audience disliked the same.

Another witnesse saith that within a twelvemoneth last past he was reported to be a schismaticall person, and that in his sermon aforesaid he the said Samuel Pretty did affirme, that a believer is as righteous as the law itself and ought not to sorrow for sinne.

WILLIAM COUPER, rector of St. Thomas Apostle's, sworne, saith that he understood the said Samuel Pretty was appointed to preach at the church articulate and this deponent having heard say that he was a schismaticall preacher this deponent having donne his sermon at his owne church he went to hear the said Samuel, and having some ability to write shorthand he, this deponent, applyed himselfe to take notes of the said Samuel's sermon as diligently as he could. And this deponent saith, that the articulate Samuel Pretty did in his sermon deliver those severall tenents articulate nakedly and barely, and that they could not probably be understood otherwise, as they were spoken. And as touching his said opinion that a believer ought not to sorrowe for sinne he alleaged these reasons to prove it: 1. That Christ is the scape goat. 2<sup>ly</sup>. That all effects of sinne are taken away from believers. 3<sup>ly</sup>. That God cannot be angry with a believer for his sinne. And he raised an objection thus, "But I am unthankfull and ought not I to grieve for this?" He answered thus, "Yet Christ hath been thankfull enough and therefore thou hast noe reason to be sorry for thy unthankfulnessse." And this deponent questioned with the articulate Samuel Pretty about his tenant or opinion sett downe in the last

Article, divers tymes, and he still affirmed that justification and salvation are all one, and that by the doctrine of the Church of England, and this deponent again asking the said Samuel whether he would stand to those words, he affirmed that he would maintain the same.

THE ARCH-BISHOP.

Pretty, tell me if you had been in Hierusalem in the Temple among the buyers and sellers would not Christ have whipped you out with them, what thinke you ?

Sam<sup>l</sup> Pretty.

If there were not favourable construction of my words to be made I thinke I should have been whipped out if I had been there. Then he fell downe upon his knees and acknowledged he had given just offence as by the articles was alleaged and humbly desired mercy of the Court.

The sentence.

The ARCHBISHOP then would only have imprisoned and suspended him from his ministeriall office, but it was moved by THE BISHOP OF LONDON that he might undergoe the censure of the Court and that to be given in order, for that he and others were minded to degrade him. THE FIRST DOCTOR OF LAW<sup>a</sup> there commissioner gave his sentence breifly for his degradation and imprisonment. THE SECOND DOCTOR OF LAWE<sup>b</sup> gave his sentence only for suspension. THE THIRD<sup>c</sup> would have him degraded and imprisoned. SIR HENRY MARTIN would have him degraded, imprisoned, and excommunicated, and the erroneous opinions to be annexed to the instrument and to be published together with the excommunication. SIR DUDLEY DIGGES would have him degraded and imprisoned. THE BISHOP OF ROCHESTER affirmed that these were poysinous opinions and many were infected by them, and he thought him worthy to be degraded. THE BISHOP OF NORWICH sayd if these opinions were suffered good manners and religion must perish, and therefore he is worthy to be degraded, and shewed

<sup>a</sup> The junior doctor, not named.

<sup>b</sup> Sir N. Brent.

<sup>c</sup> Sir J. Lambe.

that it was a most ungodly opinion of such men that justification is but their perswasion that they are just, and then they may doe any thing and need no repentance. THE BISHOP OF LANDAFFE briefly assented to his degradation and imprisonment. THE BISHOP OF LICHFIELD condemned his opinions to be erronious as touching not sorrowing for sinne, and alleaged that repentance was the first entrance into justification, and that there must be something subsequent to justification, that is, mortification, except yee mortify the Gal: 5. lusts of the flesh yee cannot be saved.<sup>a</sup> The apostles and saints in the Scriptures are said to be thus justyfed, repentance precedent and sanctification following upon it, and St. John saith ' If we say 1 John, 1, 8 we have noe sinne we deceive our selves and the truth is not in us,' soe that it is evident that repentance from dead workes, faith in the Heb: 6, 1. Sonne of God, and holinesse of life, are the predestinate way and 12, 14. meanes of salvation. But I hould (says the bishop) this man to be Gal: 2, 20. utterly unworthy to speake in the theater of God. THE BISHOP OF LONDON says he will speake but little to this man, only this, that great evills doe hereby arise to the Church of God, he briefly consented to his degradation, and to be ordered he should not againe be received to any ministeriall function. He spake the lesse in this cause (as he intimated) because there had been soe much said against these same and the like tenents in the causes of one Townes and one M<sup>r</sup> Shawe, which M<sup>r</sup> Shawe, though the said Bishop of London had in publique declared he should never have to doe by his consent in his diocesse, yet noe place, said the Bishop, will serve him but he must needs be admitted to a church in London, and he came to me for admittance, which I purpose never, God willing, to graunt. THE ARCHBISHOP concluded, brieflie but sharply reproving him for his phrase of singing all care away; yea (saith the Archbishop) drinke it away, too; but to what purpose, then, are all those rules of mortification and growing in sanctification, as

<sup>a</sup> "They which do such things cannot inherit the kingdom of God." Gal. v. 21.

Rom: 13, 12. ‘The night is past, the day is at hand; let us therfore cast away the workes of darknesse,’ &c.; and gave his sentence thus: Let him be imprisoned, suspended, degraded, and kept in prison till he bring in his licence.

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William Slater, Doctor of Divinity.

DOCTOR SLATER submitted himself by his petition to the Court, and therby professed he was heartily sorrie for his offence and tendered his submission to this effect following: Whereas I lately tooke upon me to translate some of David’s Psalmes, and added therunto a scandalous table to the disgrace of religion and to the incouragement of the contemners thereof, although I have heeretofore declared my intentions in soe doeing, yet I am heartily sory for my offence heerin, and doe humbly aske forgivenesse for the same of Allmighty God and of the people of God the whole church, promising never to offend againe in the like for the tyme to come. To this he subscribed his name, William Slater. Heerupon he was dismissed and freed of his imprisonment; THE ARCHBISHOP giving him a very sharpe reproofe for being ever busy about bables. And THE BISHOP OF LONDON called him back and tould him he must there give him admonition of that which fromthe king he was commanded in all his visitation to make knownen to all ministers that they bee more carefull in their habits not to goe like rufflers as if they were ashamed of their ministry and this is soe common a fault (he said) that ministers can hardly be knownen from other men by their habit, and therfore, Doctor Slater (said the Bishop), that band is not fitt for a minister, nor those ruffles up to your elbowes almost.

He had on a  
carelesse ruffe  
and deepe  
cuffes.

DOCTOR SLATER excused himself saying that he was now in his riding clothes. THE BISHOP replied that if he sawe him in the like hereafter he would looke out some canon or other to take hould of him.

The Lady Willoughby against her } *in causa scvitie.*  
husband Sir Robert Willoughby }

DOCTOR REEVES for the Lady Willoughby shewed she was daughter of the late Bishop of Worcester, and now one of the Ladys of Honour attendant upon the Queene. That Sir Robert Willoughby her husband had used violence against her, and would have compelled her to pledge an health to the devill; her accusation against him was for adultery with one woman—striking her once, and drinking to the devill. To this Sir Robert Willoughby had answered, and denied the same. Doctor Reeves moved the Court that they would graunt her alimonie and charges to follow the suit against him. DOCTOR DUCK, for Sir Robert Willoughby, moved the Court not to graunt alimonie nor expences, and shewed that she went into the company of papists, and they seduced her; she departed from her husband wilfully, and went over sea to St. Omer, and there abode two yeares, and entered into some orders, and now being come over againe, she refuseth to dwell with her husband, who, upon this caution that she may come home to him, he will give sufficient bond to use her well, and hopes to drawe her by that meanes to come to church. DOCTOR REEVES answered this is strange, he desires to have her live with him, and yet sweares in his answere upon his oath he doeth not think her an honest woman, and denyeth her to be a lady of honor, denyeth all; he therefore desired alimony and expenses. SIR HENRY MARTIN: Why did you, then (said he), put Sir Robert to his oath in that point? he must sweare what he thinkes: and as for your motion for alimony, you must not thinke presently, as soone as she hath exhibited articles, to have expenss[as] *litis et alimonium*—prove a crime first.

THE BISHOP OF LONDON saith, I am sorrie for the Bishop of Worcester that his daughter is thus seduced, yet if he will put in sufficient security to use her well, and deale well with her, I will not give expenss[as] *litis* neither now nor hereafter. The Court

ordered that when the cruelty did appeare they would graunt expenss[a] and alimony: and in the meanwhile Sir Robert Wiloughby was to tender his love unto his lady himselfe at her lodgeing in Drury Lane.

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The Cause against Richard Lane, a taylor.

One Richard Lane, a taylor, was brought into the Court by the messenger of the Court, and it was alleaged against him that he held blasphemous opinions, and had uttered them in blasphemous speeches; and saith ONE OF THE BISHOPS, ' You make nothing to lye to excuse yo<sup>r</sup> selfe; you say Jesus Christ denied himselfe to be Christ to save his life.' ' What' (saith THE ARCHBISHOP) ' doe you say that our Saviour denied himselfe to be Christ?' Lane denied that he said soe. Then said THE BISHOP OF LONDON, I heare you are an high Familist, and you hould it very lawfull to equivocate. Did not you say that you were as Christ was, God and man? LANE: I did not say soe; but through Jesus Christ I think I am perfect, and I hould that perfection is and may be attained in this life. ARCH BISHOP: Doe you say the Lord's Prayer? LANE: The Lord hath wrought that in me that I need not to use it, and can pray, I thank God. I said that Christ dwelling in a believer, and being his guider and disposer, he may say, ' Repentance is hidd from mine eyes.' BISHOP OF LICHFIELD: What say you, then, to this of St. John, ' He that saith he hath noe sinne is a lyar?' LANE: The words of the same Apostle, ' He that is borne of God sinneth not.' BISHOP OF LONDON: St. Paul saith, ' O wretched man that I am, who shall deliver me from the body of this death;' and are you perfecter then St. Paul? LANE: Paul saith he was carnall. BISHOP OF ST. DAVIDS: What, will you argue with him? LANE: Though St. Paul cryed out so, yet

<sup>1</sup> John, 1, 8.

presently he is full of thanksgiving. Jesus Christ hath revealed Rom: 7, 24, 25. this to us, and given us his spirit. 'Even as Christ was, soe are 1 John, 4, 17. we in this world;' and 'He that doeth righteousness is righteous as 1 John, 3, 7. he is righteous.'

Then the Court referred the drawing of the articles to the Bishop of London, who undertooke the same.

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In the Court of High Commission, Thursday, 27 Octobris, 1631. 7<sup>o</sup> Car. Regis.

|        |   |                     |
|--------|---|---------------------|
| Before | George, Archbishop Canterbury.  | Commis-<br>sioners. |
|        | William, Bishop of London.  |                     |
|        | Thomas, Bishop of Coventry and Lichfield.                                       |                     |
|        | Theophilus, Bishop of St. David's.  |                     |
|        | Francis, Bishop of Norwich.   |                     |
|        | John, Bishop of Rochester.  |                     |
|        | S <sup>r</sup> Henry Martin, Knight, Doctor of Lawe.                            |                     |
|        | S <sup>r</sup> Charles Cesar, Knight, Doctor of Lawe.                           |                     |
|        | S <sup>r</sup> John Lambe, Knight, Doctor of Lawe.                              |                     |
|        | S <sup>r</sup> Nathanael Brittaine, <sup>a</sup> Knight, and Doctor<br>of Lawe. |                     |

The Cause against Samuel Pretty<sup>b</sup> Clarke.

The sentence of Degradation of Samuel Pretty Clarke was brought to the Court ready drawen and the said Samuel being called came in and appeared and then the Archbishop read the sentence in latine beginning, *In nomine Domini*. The maine clause of the same sentence being, *ab omnibus officiis spiritualibus degradamus, &c.* And to this sentence all the board sett their handes.

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<sup>a</sup> See note to p. 181.

<sup>b</sup> See p. 181.

The Cause against one Fox for speaking against confirmation.

Fox being present at the catchising of some youthes in London heard the minster (as it seemeth) deliver, that the Bishop's confirmation did acquit and discharge the Godfathers and Godmothers and then presently Fox (disliking the same) did aske the Curate what he had to prove that out of the word of God? The Minister presently cried out and called upon his Master and called for the Officers alleging against him the disturbance of the Minister in tyme of Divine Service: upon this Fox was committed to prison and brought to this Court and accused for speaking against confirmation, which Fox denied and the prosecutors could not prove, but that onely he spake those wordes afore mentioned, "What have you to prove that the confirmation of the Bishop doeth free the Godfathers and Godmothers of their charge out of the word of God?" Heereupon it was the opinion of S<sup>r</sup> CHARLES CESAR that this man was not to have been brought heere for this, being the speaking against confirmation was not proved nor could be; and therefore he was to be discharged of his imprisonment.

THE BISHOP OF LONDON, in whose diocesse this was donne (as it seemeth) declared his minde that he was not against the release-ment of the youth and desired not his imprisonment, yet he very much disliked the speech of that Commissioner that had said this cause was not to have been brought in this Court, and that for his part he thought such a Commissioner deserved to be putt out of the Commission. Yet it was ordered that Fox should remaine in cus-tody of the Messenger till he had payd the charges of his former imprisonment.

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The Cause against Richard Lane<sup>a</sup> Tayler for blasphemous opinions, and against Joan his espoused wife.

That you did for the space of these twelve monethes last separate yourselves from your parish churches and have had private meetinges

<sup>a</sup> See p. 188.

and conventicles in unlawfull manner by yourselves and others. Declare where in whose house or houses and with what companie you have soe mett and what are their names?

The Articulate Richard Lane confesseth that he and others did often meet at the house of one Westbrooke a Taylor in Shooe Lane, RICHARD LANE. but the names of the parties that did meet there with him this examinat doth not remember.

This examinat confesseth she hath mett diverse tymes at the house of one Westbrooke, but denyeth that she separated herselfe from her parish church. Answere of JOANE.

That you Richard Lane in your private meetinges do take upon 2 Article. you to expound the holy Scriptures?

This deponent denyeth the same.

Answere.

That you Richard and Joane doe hould that a Christian in this 3 Article. world is as absolutely perfect as Christ Jesus himselfe.

To the 3<sup>d</sup> this examinat saith that he houldeth the beleiver is RICHARD. not soe righteous and perfect in himself, but is soe accepted for perfect by God through Christ Jesus.

To the 3<sup>d</sup> this examinat doth not beleive the same to be true, JOANE. and therein submitteth her iudgement to be guided by the higher powers, the Bishops and Doctors of the Church.

That about 3 weekes since, you Richard Lane came to one 4 Article. Mr Powick and tould him you were come to reconcile yourselve to him, and he answering that there needed none for that he was not displeased with you, you sayd yes, for I heard you should say I deserved to be hanged: The said Mr Powick then sayd he had heard of one indeed that said he was God and man as Christ himselfe was, and that he thought such a man deserved to be hanged and you replied that you were as Christ, and that as the word was made flesh soe your flesh was made the word and that you were holy and always was soe.

To the 4<sup>th</sup> this examinat saith that he affirmed noe more in RICHARD. summe to Mr Powick then he hath confessed in the third article for perfection and that every Christian is full of the word: but said

that we are without sinne, and that he said he was perfect God and perfect man.

5<sup>th</sup> Article. That you have affirmed the same to others and still hold it your opinion.

RICHARD. This examinat to the 5<sup>th</sup> saith that he now houldeth noe otherwise then he hath declared in the third article.

6<sup>th</sup> Article. That since you were questioned for these opinions before the Lord Mayor of London and the Court of Aldermen you have boasted the same yo<sup>r</sup> opinions to be true.

RICHARD. To the 6<sup>th</sup> this examinat saith that he did not so boast but was and is sorry that he ever spake those wordes before my Lord Maior or any other soe indiscreetly and unadvisedly.

7<sup>th</sup> Article. That you do hould these said opinions and to prove them have alleaged these scriptures: Math. 19. 20. James 3. 2. Col. 2. 10. Hebrewes 11. 40. and you have said you are as perfect as Christ and to prove it have brought this place 1 John 4. 17. and that all beleivers are soe and therfore they cannot sinne.

RICHARD. This examinat to the 7<sup>th</sup> confesseth that he said and still houldeth that a beleiver is perfect by acceptation through Christ and to that purpose brought those scriptures mentioned in this article to prove it.

8 Article. That when some urged these scriptures to you to prove sinne to be in beleivers, He that saith he hath noe sinne is a lyar, and O wretched man that I am &c. you did wrest and misapply the same to mainteyne your said errors.

RICHARD. To the 8<sup>th</sup> this examinat confesseth he did answere then as is articulate but since being better informed he is sory for the same his indiscretion.

9 Article. That you sayd when Christ received the holy ghost after his baptisme he was filled with the Spirit of God and that you have likewise received the holie ghost and that there was noe difference betweene yo<sup>r</sup> righteousnesse and Christes and that believers nowe are more perfect then the Apostles and prophettes were and that you still

hould the same and are not resolved to lay downe these blasphemous opinions.

To the 9th this examinat confesseth he held as on the third RICHARD. article he hath declared, but denyeth the rest of this article.

You say that you heard one M<sup>r</sup> Greenham preach and confirmed 10 Article. you in your opinions aforesaid.

To the 10th this examinat confesseth that he heard the said RICHARD. M<sup>r</sup> Greenham, but where he doth not remember, nor knoweth where he dwelleth.

To the 10th this examinat confesseth she heard the said M<sup>r</sup> JOANE. Greenham preach at a Church upon Fish streate hill and that there he dwelleth.

If you have spoaken these wordes indiscreetly and unadvisedly THE ARCH- yet you have sinned against God an horrible and greate sinne, and BISHOP. in yourselfe without true repentance you stand in noe better then the state of damnation. It is true, One that beleiveth rightly in Christ Jesus and is Godly, and liveth an holy life, God forgives him his sinne. But for you to say you are as Christ, bone of his bone and perfect, &c., is most untrue. The Apostle saith not that perfection is heere in this life. St. Austin affirmeth that this life is the life of imperfection, and therefore continually did and would use the Lordes Prayer, forgive us our trespasses. And our Saviour taught his Apostles to pray this prayer, if they had noe sinne it needed not: and to this agree all the Scriptures as Psa. 51, &c. St. Paul saith "O wretched man that I am," and St. James "In many thinges we sinne all," and St. John saith "Unlesse we confesse our sinnes we are lyars." These are the pillars and the bell-weatheres of the flock and they confesseth much of themselves, but you that are of the earth attribute more unto yourselfe. If you doe not fall downe upon your knees and ask good forgivenesse for these your blasphemies I shall give my sentence you be made an example to all the world.

BISHOP OF LONDON: This will not serve his turne: You say that you are righteous and perfect by acceptation and soe putt it

off, but what say you for those wordes of yours that you sayd you were perfect God and perfect man, was that by acceptation too?

S<sup>r</sup> HENRY MARTIN moveth that this man be not presently let goe but be sent to Bridewell till the last day in Court of this terme, and thinkes by that tyme he will be lesse perfect.

BISHOP OF LONDON secondeth this motion of S<sup>r</sup> Henry Martin, and saith he did but prevent him in it, but forasmuch as in his judgment he had deserved *ultimam pænam*, he would have him taste of the severest discipline of Bridewell till the last court day of this terme and then to make his submission and say the Lordes Prayer.

S<sup>r</sup> HENRY MARTIN: Nay, sirrah, if this be not for your amendment I knowe not what will become of you.

BISHOP OF LONDON: You said you were as righteous and as perfect as Christ but now you say it is by acceptation, you are as Christ was; why was he righteous by acceptation?

ARCHBISHOP: And Joane must not escape soe, for she said she was perfect the last day, therefore lett her make her submission to the Court.

BISHOP OF LONDON: Let her make her submission in forme the next Court. In the mean while let her goe with him to Bridewell, but to be kept asunder.

DOCTOR REEVES moved they might be examined, being they were married before God, whether they did lye together; but they denied the same.

#### SIR ROBERT WILLOUGHBY AND HIS LADY.<sup>a</sup>

THE REGISTER exhibited their agreement in writing to this effect following: That Sir Robert Willoughby agreeth with his lady to allow her lxxx<sup>ii</sup> by the year for her maintenance whether

<sup>a</sup> See p. 187.

she live with him or noe, and if she shall live with him then to let the overplus above the expences for her cloathes to goe towardes the charge of housekeeping. And if she shall come to live with him then he shall use her well, and for the performance of this he is to give 500<sup>li</sup> bond. The Court liked their agreement, but some muttered that they would not compell him to enter in this bond. But THE BISHOP OF LONDON would not have the Court mocked, and therefore the bond to be.

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A PRIEST exhibited his petition to the Court, alleaging that he was examined by the Bishop of Lichfield on suspicion to be a seminary priest which he denyed, and for that he was able to take his oath and to prove by the certificate of the country where he was educated that he was noe priest, nor ever entred into orders, he desired the mercy and favour of the Court that he might have liberty and to procure such a certificate.

THE BISHOP OF LICHFIELD : I wonder at the insolence of this man. I examined this man, he confessed he was a Romish Catholick, and that he was brought up in Sussex with one Mr Pett a schoole master, that being examined how many tymes he himselfe went to Church in those 11 yeares he was under Mr Pett the examinat answered, for his parte he never was at any Church all that while, but knewe not where Mr Pett himselfe went to Church, and THE BISHOP OF LICHFIELD examining him required him as he was a Romish Catholique to take his oath without equivocation that he was noe priest: but he refused soe to doe, saying he knew not what this word equivocation meant. He confessed he had been absent out of the land at St. Omers two years, but denyed he received any orders there. All this appeared upon his examination taken before the Bishop of Lichfield, which was read. Then THE ARCHBISHOP tooke exception at the wordes "Romish Catholick," which

imployed a meere contradiction. "For," said the Archbishop, "Romish implyeth a particular Church and Catholick an universall," and briefly put him to the question whether he would without equivocation sweare he was noe seminarie priest? He answered he was able to take his oath that he was not a priest. "Able," saith the Bishop of London, "soe am I able to doe such thinges which God forbidd I should do or you either. Is that an answer—that you are able? Will you? Answer yea or noe." He then desired mercy of the Court. "You must dispose yo'relf then for mercy," saith THE BISHOP OF LONDON, "as if we looke for mercy at Godes handes we must then soe dispose our selves as that we may be capable of it." "Then," said THE ARCHBISHOP, "will you take the oath of allegiance?" "Allegiance," said the Priest, "I doe not knowe what that word meanes, what is the ground of it?" Said the BISHOP OF LICHFIELD, "Doe you knowe what it is to be a subject?" Then he desired mercy and tyme to consider of it. He was committed to New Prison for a seminary priest and refusinge to take the oath of allegiance.

Then was read the bill or Schedule of the Massing vestmentes and instrumentes which were taken with the same priest, as coules, cassockes of silke, copies of old silke imbroydered, a challice of silver, and a bread box, and many other superstitious thinges, w<sup>ch</sup> THE ARCHBISHOP and THE COURT ordered that they should be defaced according to the statute by the Register: And THE BISHOP OF LONDON moved that, wheu they were defaced, the owners should have againe the matter especially that of value, being according to the statute, that they may not say we or any doe it for their goodes and for lucre, and soe this Court and the Officers shall prevent a great scandall.

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DOCTOR REEVES, the kinges advocat, exhibited a petition to A priest. the Court in behalf of a Popish priest, a prisoner, which shewed that the petitioner was very sicke and in danger of death, if some refreshment in the aire abroad were not granted unto him; and this upon certificate of one of the phisitions of London. He desired upon good suerties to be let take the aire, &c. It was answered by ONE OF THE BISHOPS that he could have little benefitt of the aire this winter tyme; and S<sup>r</sup> HENRY MARTIN tould Doctor Reeves he was the unfittest man of all to move this petition: who answered that he was first committed upon his motion, and this he desired his Grace to remember in his excuse; and the petition was denied.

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DOCTOR BATES HIS MAN petitioned the Court in the behalfe of Agnus Deis. a gentlewoman, his kinswoman (as he said) in Drury Lane; the petition being in the gentlewoman's name shewed that the Register had in his custody two jewels of hers, of little value in themselves, onely she esteemed them the more because they were given her by a friend that is dead, that they were not worth 10<sup>s</sup>, and humbly prayed she might have them restored to her. The Register being asked what they were, answered they were two Agnus Deis, and that he had them safe. Doctor Bates his man was reproved by THE BISHOP OF LICHFIELD as being an unfitt man to be seen in this petition, and ordered that they should be defaced according to the statute.

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One Harrison, a minister, petitioned the Court that he might, Harrison. upon his humble submission and acknowledgement, be dismissed for this tyme, shewing he was accused by a company of Puritans for and other Articles. THE BISHOP OF LICHFIELD moved he might undergoe the censure of the Court, for that he was as worthy to be degraded as any he knewe.

In the Court of High Commission, Thursday, 3<sup>d</sup> No: 1631.

|        |   |                     |
|--------|---|---------------------|
| Before | George, Archbishop of Canterbury.             | Commis-<br>sioners. |
|        | William, Bishop of London.                    |                     |
|        | Richard, Bishop of Winchester.                |                     |
|        | Thomas, Bishop of Coventry and Lichfield.     |                     |
|        | Francis, Bishop of Norwich.                   |                     |
|        | John, Bishop of Rochester,                    |                     |
|        | S <sup>r</sup> Henry Martin, Doctor of Lawe.  |                     |
|        | S <sup>r</sup> Charles Cesar, Doctor of Lawe. |                     |
|        | S <sup>r</sup> John Lamb, Doctor of Lawe.     |                     |

A cause against one M<sup>r</sup> Viccars, of Stamford, in Lincolnshire, came to be heard.

This cause was prosecuted by some of the towne of Stamford, of which the towne clarke was one. The prosecutor petitioned his Ma<sup>tie</sup> against M<sup>r</sup> Viccars, who referred the same to be heard to his Commissioners in causes ecclesiastical; and the cause, after much finding and proving by Commissioners and examinations of the party and witnesses, appeared to be as followeth.

|                         |                  |
|-------------------------|------------------|
| Doctor Reeves - - - - - | The Prosecutors. |
| Doctor Eden - - - - -   |                  |

|                       |                             |
|-----------------------|-----------------------------|
| Doctor Duck - - - - - | For M <sup>r</sup> Viccars. |
| Doctor Gwyn - - - - - |                             |

The proofes were all collected into a breife of the whole cause at the Court of Informacons, which prepareth alwayes the causes to be heard in this Court, and the first article was as followeth in effect:

That you, M<sup>r</sup> Viccars, being a minister and in orders, and having subscribed or kept and held privat and unlawfull conventicles in such and such yeares during the tyme of yo<sup>r</sup> being viccar at Stamford.

1 Article or  
head of Accu-  
sacion.

It is true the articulate being a young man did pray and repeate Answere. If this were not in the answer to the Article it was in the defence made by the Advocat[e].

sermons in the house where he lodged, and divers of his parishioners came in and were present, but not by his invitation, &c.

That he helde there was noe hell now but one in preparing for the ungodly.

That it is true out of the sixt to the Hebrewes the Articulate did deliver his opinion in a sermon that the body of the wicked goeth not to hell till the day of judgment, &c.

That M<sup>r</sup> Viccars held, and soe did preach, that it was lawfull for a minister to preach soe particularly that his auditors might knowe what and whome he meant, but yet to do it so covertly that noe legall advantage might be taken against him.

That a lawyer, vizt. a barrister or councellor at lawe, deposed that Mr Viccars had made the pulpit of Stamford a place to vent his malice, and that against this deponent, and that he hath given him this touch, and thou that knowest the lawe, &c.

That M<sup>r</sup> Viccars delivered in his sermon that he that did not performe the whole lawe was accursed, preaching upon 1 Cor. 16, 22. And that he useth to conclude his sermons and prayers w<sup>th</sup> this blessing, Blessed are they and they onely that performe the whole lawe.

That he did not preach this, that whosoever doeth not in him- Answere. selfe fulfill and performe the whole lawe cannot be saved, or is accursed. But that Christ Jesus hath fulfilled the whole lawe for every believer, and that he that loveth not the Lord Christ is accursed, and that he that keepeth not the lawe is for the present for his unsanctification to be esteemed one that loveth not Christ Jesus, it being a signe that he loveth not the Lord.

That M<sup>r</sup> Viccars preaching upon 1 Titus 7, affirmed that they 5 Article or that had these blemishes and were guilty of these vices here set head. downe were noe true ministers, and brought to prove the same that of the blemishes of the preistes in the Leviticall lawe w<sup>th</sup> made them uncapable to offer the Bread of their God, Levit. 21, 16, 17, 18, &c. proved by divers witnesses against M<sup>r</sup> Viccars. And one

of the witnesses under the title of the legata [that is, as I conceive, thought fitt by the Court of Informacons to be read at the hearing] deposed that M<sup>r</sup> Viccars in his sermon compared those ministers that had those vices mencōned in 1 Titus 17, to those of the seed of Aaron that had the blemishes, &c. and that another tyme he said in his preaching thus, I have tould you once, and now tell you againe, that if you remaine under such ministers you hurt your owne soules.

6 Article or head.

That about 4 yeares since M<sup>r</sup> Viccars had conference with some persons about contributing to his maintenance for preaching at Stamford and those persons (not being of his parish) sayd we may not goe to other churches then our owne, wherunto M<sup>r</sup> Viccars replyed that they must have a care to heare that minister that preached the Word and not they that brought chaffe and not God's Word: and this head was proved by divers witnesses, and that he said they must get and be under a fiery ministry.

7 Article or head.

That M<sup>r</sup> Viccars 1629, in a sermon spake against the observation of the Feast of Christmas, and said it was superstitious, and that it is not kept at the just tyme of the yeare, when Christ was borne, with us, and that it ought to be held at Michaelmas or in September, and not at the tyme we celebrate it: and that he said to diverse to keepe the feaste as it is now kept and at that tyme is superstitious.

This was proved by witnesses.

8 Article or head.

That M<sup>r</sup> Viccars preacheth at Stamford and blesseth some and curseth others that doe not frequent his conventicles, and makes notes of difference out of 2 Cor. 13, last—one note that if they love one another, &c. and he saith to those that please him not thou art an hell hound, and destrucion is thy porcion, and againe sette notes of distinction on those that frequent his privat conventicles, and those he termeth his children begotten in the Lord but thothers he sends to hell, &c. This was likewise endevoured to be proved as you shall see after.

9 Article or head.

That M<sup>r</sup> Viccars did preach that God will not accept the prayers of an olde man that hath lived under a powerfull ministry and

would not serve God in his youth, and that he shall never be saved. One witnessse (of the *legata*<sup>a</sup>) said that Mr Viccars in his preaching and catechising the boyes had this question, Doe you think that a master will accept of his apprentice that in his youth went from him when in his decrepit age, when he is ould, he commes to him for relief ? And the boyes answered Noe, and soe said Mr Viccars also : Another of the legata affirmed that he heard Mr Viccars catechise the boyes, and in his catechising affirme if any deferred their repentance till their ould age their prayers would be abominable.

That he never preached that it was impossible for an ould man Answer of defence. to repent or be saved; but that preaching about Christmas was 12 moneth upon 19 Levit. 12, he divided the age of man into 3 partes of life, childhood, mannage, and olde age, and sayd if in youth and mannage they under the sound of the gospell that still scorne it and will not beleive it and obey the same are in a fearfull condicion for that they are rather left of their sinnes then leave their sinne and that repentance in youth is more acceptable to God, &c.

That Mr Viccars preached that if any tradesman labourer or 10 Article or artificer should work for or receive wages of an usurer if he made head. not restitution was guilty of receiving stollen goodes, and without repentance cannot be saved, deposed by divers, saving one—doth not sweare the last wordes, without repentance cannot be saved.

That Mr Viccars did preach that he that doeth not *when he may* 11 Article or heare two sermons every Saboth day committeth a greate sinne, and head. is in the way to fall into the sinne against the holy ghost, and if they were not where two sermons a day were, they were to remove unto another place wher they might enjoy a fiery ministry, and that they that neglected this preaching twice a day to their people would never see the greatnessse of their sinne till they fryed in hell for the same, &c.

That Mr Viccars did preach and affirme that for a man to knowe 12 Article his wife after her conception with childe, or that she is past child- or head.

<sup>a</sup> Does this mean that the witnesses did not appear in person, but that their evidence was taken in the country and sent up?

bearing, is both murther and adultery. A wittnesse, legata: that he gave this reason, that he spent his seed in vain, and that if he lay with his wife, her monethly termes being upon her, he committeth adultery; and that he ought not three dayes before and after the receiving the sacrament to knowe his wife.

13 Article or head.

That Mr Viccars did preach and affirme it to be a sinne to receive the sacrament upon any other day than the Saboth-day, although it were Christmas-day, and that none but ignorant men and fooles would soe receive it, &c. Divers witnesses prove this.

Answer of defence.

That he knoweth no canon for receiving the sacrament upon any other day than the Saboth, except in the case of necessity. Againe, he answereth that this Article is untrue, any further then his speech was warranted by Acts xx. 7, which shewes that all speciall meetinges was on the first day of the weeke. And Tertullian, chap. 79, to the same purpose.

14 Article or head.

That Mr Viccars exhorted his people to use extemporary prayers, and that common prayers of sett forme were not enough or sufficient, and he hath commended conceived prayers before a sett forme of prayer, and sayd that they were weake Christians that could not pray soe.

15 Article.

The wife of one of the parishioners dyed in child-bed, and was brought to be buried upon the Saboth-day, and Mr Viccars would not bury her till he was commanded by one of the justices, &c.

16 Article.

That Mr Viccars and others held secrett meetinges, and that he hath compelled those that come unto him to enter into a covenant with God, and to indent with him to doe whatsoever God commandeth. He asked them whether they were willing to enter into this covenant; and that for authority heirof he found out a place where Josiah entred into a covenant with God, and therfore he himselfe and they ought also soe to doe, and that it was to renew their covenant made in baptisme, and this was without any oath or seale put to.

17 Article.

That upon Simon and Jude's day, 1628, he was admonished by the Bishop of Lincolne, and that he hath since delivered many

erroneous opinions, and therfore he is become an incorrigible man, and hath given more offence, and hath since been more irregulare, then before.

That Mr Viccars hath in his sermons inveighed against magistrates and government, and delivered many dangerous opinions in the year 1628, to this purpose, that our Lord sent his disciples without scrip or sword; but now let him that hath a purse keepe it to defray charges of persecution. Whereas Peter said to Christ, Luke 22, 38. Heere are two swordes, and he answered it was enough. Mr Viccars affirmed that Christ meant that one sword was enough, viz<sup>t</sup>, the sword of the Spirit, and that if any temporall magistrate did prove nought he was to be put out of his office, and this the witnesse thought he spake against the magistrates of Stamford.

*Legata,*<sup>a</sup> a witnesse: He hath heard Mr Viccars preach, let him that hath a purse keepe it to defray charges of persecution; and that men ought to cleave to the sword of the ministry and not to the sword of the magistrates if it were drawen out against the other; and he hath heard Mr Viccars preach of matters of state nothing concerning his auditors. \*

*Legata,* an other witnesse: That he heard Mr Viccars preach that the magistrate never drewe his sword but in vaine, or against those he should not, and that he sheathed it up againe when he should drawe it against the wicked.

That when Mr Viccars was to appeare before the Lordes of the 19 Article. Councell he appointed two fastes at Stamford upon weeke dayes, and that he preached before noone and after diverse tymes, and a great company of the countrey came to these fasts, but the particulars of the sermons the witnesse cannot remember, but that his preaching tooke up six or seven hours, viz<sup>t</sup>, his preaching and extempore prayers; and that he left out some of the common prayers, and made divers cursinges against some of his parishioners, &c.

That Mr Viccars, before the receiving of the sacrament, used to 20 Article.

\* See p. 201.

make divers execrations, to the greife of conscience of his parishioners. That this deponent intreated him not to use such execrations, for if he did he could not receive the Communion at his handes. But notwithstanding, M<sup>r</sup> Viccars, when this deponent came to receive the sacrament, leaft the exhortation in the Booke of Common Prayer, and of his owne brayne used many greivous wordes against this deponent, to this purpose: Thou sayedst thou wouldest not come to the sacrament, why art thou not gonnew? And The devill goe with thee, and he presently received himselfe, butt his deponent tould him he was grieved in conscience and vexed, and wished him not to use these invectioines, &c.; yet he did proceed in his exhortation and used these wordes, Thou sonne of the devill, thou art damned and the sonne of damnation; get thee to the devill; take hell for thy portion, to the africhting the heartes of the people, and that diverse said he meant this deponent, but he applyed not the same to himselfe.

## 21 Article.

That M<sup>r</sup> Viccars use and custome is to administer a monethly communion, and before it to exercise on Friday and Satturday, which he calleth preparacions; and that when in harvest tyme some came not to these exercises, M<sup>r</sup> Viccars, streching his hand in the church towardes them, said these wordes: that many are heere who are not ashamed to stretch forth their handes to receive this blessed sacrament, who were not at the first nor second preparacion, and I denounce that they have noe parte in this sacrament, that is in the grace thereby, &c.

## 22 Article.

That when he appeared before the Lordes he wrote a consolatory epistle to his followers at Stamford, and used this of the Apostle Philip, i. 28, 29, and that of Peter i. 4, 14; he wrote further that his day of answer was very shortly, his accusations very strong, but that nothing was yet come to the Clarke of the Councell's hand. He heard the lyon roared, and were not my heart (saith he) build upon the rock I might well feare; but be not discouraged at my sufferinges, which is your crowne, and be not afryad of the revylings of men, and finally pray for us, and doe as Hezekiah did against Senachrib, be not troubled with any Sanballat whatsoever.

When he was sent for and summoned before the Lordes he sett <sup>23</sup> Article forward with 12 or 13 of his followers.

Preaching upon the 46 of Ezech. 4, he saith that upon the <sup>24</sup> Article. Saboth day every prince that is every Master of a ffamily ought to offer to God a 6 fould sacrifice besides the publique prayers and sermons of the church. And legata, the witnesses depose that 6 or 7 women heerupon would not serve because they could not fynd such masters as would keepe this 6 fould sacrifice upon the Saboth day. And that these women were called the newe Nunnery of Stamford: That he delivered the 6 lambes to be the 6 fould sacrifice and this to be offered by the Prince which is meant the Master of every family, and that he ought to offer this sacrifice 6 times every Saboth day besides the publique. That is privat prayer first and then prayer before and prayer after the repeting the publique sermon in the morning which is 3 and soe in the afternoone againe and that is 3 sacrifices more and soe the 6 fould sacrifice is made up.

Another witnesse, *legata*.<sup>a</sup> That M<sup>r</sup> Viccars delivered openly in publique that every Master of a family ought to keepe a 6 fould sacrifice upon the Saboth day counting morning and night and diverse servants left their Masters because they could not have under them these 6 and 3 fould sacrifices upon the Saboth dayes.

That M<sup>r</sup> Viccars useth ever after the catechising ended to goe <sup>25</sup> Article. forth and not come in till a little before the pasme is sung before the sermon, and this deponent never heard him read the Letany, diverse witnesses sayd soe, and one that he never heard him read the Letany but once and once divine service.

M<sup>r</sup> Viccars defence read by the Registers sonne out of the breviait of the Cause prepared by the Court of Informacōns &c. Ut sequitur.

Witnesses read. 1. He saith that M<sup>r</sup> Viccars was for all the <sup>1.</sup> Head of time he knew him at Stamford (the witnesse being a Parishioner) a <sup>a</sup> defence. proffitable preacher and that his preaching tended (as he ever con-

<sup>a</sup> See p. 201.

ceived) to the peace of the Church, he used the crosse in baptisme and woare the surplis and never made any scruple thereof, for ought he knewe; That he frequently exhorted children and servants to obedience to their Fathers and Masters: That he affecteth the booke of common prayer and hath heard him read the Letany and he admonisheth his hearers not to speake against it.

Another. That he is a man of good life and conversation and well esteemed of among the most sober, and a Godly and learned preacher, and this the Promotors witnesses also say; in this manner it was read, A. B. testis promotoris, that he is an honest, sincere and learned preacher: and thus to the number of nere 20 of the promoters witnesses were read and mentioned to be *contestes*, or els *nescire deponere*.

"I am uncertain whether those 20 of the promoters witnesses were *contestes* or were termed *nescire deponere*."

2. Head of defence.

That M<sup>r</sup> Viccars is a young man and lodgeth at another man's house and there were divers meetinges there it is true by many but this examinat heard noe doctrine ever in such meetinges delivered by him but such as is agreeable to the doctrine of the Church of England, and that he never prayed that God would give his Matie a more sacred spirit as is articulate, but that he prayed that God would give him more and more a sanctified spirit: He did not heare M<sup>r</sup> Viccars in these meetinges or at any tyme discourse of any thing against the Church of England: And divers witnesses *ab utraque parte producti* say they never heard him use any wordes or positions against the Church of England.

3. Another head.

That he hath heard M<sup>r</sup> Viccars preach that if any fell into the sinne against the Holy Ghost he could not repent and therefore could not be saved, and hath heard him deliver that no sinne is unpardonable but that sinne, and that he hath not heard him ever preach (note the witnesse was his constant hearer) that if a man fell againe into the same sinne that this was unpardonable or that it was the sinne against the Holy Ghost, but he hath heard him preach the contrary heereunto, vitz. that noe sinne is unpardonable but the

sinne against the Holy Ghost, and divers *ab utraque parte producti* say the same; and 13 alsoe (as nere as I could marke them) of the promotors wittnesses did affirme the same, or nesciunt deponere. I cannot well remember whether.

Another witnesse being a woman saith that M<sup>r</sup> Viccars did not 4. Another head. preach that there was noe hell now, but that the body of the impenitent went not presently to hell but was condemned to hell when he dyed, and in that sence and noe otherwise he was understood as she conceiveth and many *ab utraque parte producti similiter*, and some adding that M<sup>r</sup> Viccars hath preached the contrary within the tyme articulate.

That M<sup>r</sup> Viccars, when he preached upon 1 Cor. 16, 22, did not 5. Another head. deliver that he that kept not the whole lawe shall be damned but he that loveth the Lord Jesus Christ is accursed, and that the keeping of the commandments was a signe of Love of Christ in us, and noe otherwise, for we are under the Covenant of grace and not of workes, and that he that did not love the Lord-Christ was cursed with a deadly curse and he that kept not the commandements (in such manner as the newe Covenant requireth) it was a signe he doeth not love Christ: that he further delivered, That every Christian should endeavour to keepe the whole lawe, and that Christ hath taken away the curse of the lawe that it cannot fasten upon believers, and divers testes similiter and (as I remember it) some of the promoters witnesses similiter but nere 19 of the promoters were said nescire deponere.

Another witnesse saith that M<sup>r</sup> Viccars did not preach against the 6. Another head. keeping of the Feast of Christmas, but against those that kept the same feaste onely as a corporall feasting, and likewise reproved those that observed it supstitiously, and preached that it was both lawfull and godly to absteyne from bodily labour upon the same day and to observe it but not supstitiously; and that he observed the same feast himselfe. Divers witnesses *ab utraque parte producti similiter*, and adding that he hath knownen M<sup>r</sup> Viccars observe it himselfe.

7. Another head. That M<sup>r</sup> Viccars never delivered those notes of distinction as is articulate, but delivered that men might knowe themselves to be the children of God, and gave notes to that purpose, but did not deliver notes of distinction of the second sorte articulate neither did his auditors understand him in this sence, but in the former; many were read to be contested of this, some saying that he delivered and made notes of distinction betweene the godly and the wicked, but not as is articulate, and divers testes promotoris either similiter or nesciunt deponere.

8. Another head. That M<sup>r</sup> Viccars never delivered that repentance of ould men is abominable or impossible for them to repent; but that in his sermon he divided man's age into, 1. Childhood. 2<sup>ly</sup>. Youth or mannage. 3<sup>ly</sup>. Decrepit olde age, and that he that in the two former partes of his life mocked and scorned all both the message and messengers of God, if such an one came to God in his decrepit age or on his death bedd God would not heare him (because such are rather left of their sinnes then leave their sinnes) unlesse he doeth repent as Manasses did, yet repentance in youth is more acceptable and more certaine, 3 *ab utraque parte producti similiter* and 5 more similiter, and adding that he exhorted to remember their Creator in the dayes of their youth and 12 more similiter or contestes, and some of the promoters wittnesses as I remember similiter, but were 11 of the promoters wittnesses nesciunt deponere.

9. Another head. That M<sup>r</sup> Viccars said not as in the article is sett downe, but he sayd that whosoever receiveth any goodes gotten by usury ought to restore them when the usury is lawfully convicted, and he never heard him preach to the contrary; and 12 of the promoter's witnesses *nesciunt deponere*. But my notes doe not mention that there were any contestes of this or that did say similiter.

10. Another head. That M<sup>r</sup> Viccars did not preach that those that did not heare and preach twice a Saboth day were or should be damned for it, but that it was a sinne if they might and neglected it, and exhorted his auditors to heare and preach twice a Saboth day, but never preached

as is articulate or delivered the opinion articulate, but onely exhorted them to heare twice a day.

That M<sup>r</sup> Viccars did not preach to knowe a man's wife after conception or child bearing was murther and adultery, but for a man to knowe his wife for lust onely was a great sinne, and if it were in the tyme of her separation it was murther and adultery, and that this deponent was not offended at it as it was delivered. <sup>11. Another head.</sup> Another witnessse: That M<sup>r</sup> Viccars preached that for a man to knowe his wife onely for the satisfacion of his lust is a great sinne, and if in time of her naturall separacion it was murther and adultery; and this examinant tooke noe offence thereat, and that this was delivered in a modest manner, and none of the honestest or the better sorte of his auditors were offended therewith. Another addeth that he knoweth this was delivered in modest manner without offence; and divers others say *similiter* and some *contestes*, and many of the promoter's witnesses *nesciunt deponere*.

That M<sup>r</sup> Viccars did not deliver that they were fooles and asses <sup>12. Another head.</sup> that received the Communion on another day then the Saboth-day, but he said that he found no warrant for the delivering or receiving the sacrament but upon the Saboth-day, unlesse it were in case of necessity—and so the most of his auditory understood him, and he knoweth none that were offended thereat, and divers on both sides produced witnessed the same.

That it is true M<sup>r</sup> Viccars hath in his preaching condemned those <sup>13. Another head.</sup> that pray with their lippes and not with their heartes, and commended the booke of common prayer and common and sett formes of prayer; and he did never heare M<sup>r</sup> Viccars preach to the contrary, and divers brought on both sides say soe: and that M<sup>r</sup> Viccars (being questioned heerabout in privat) answered, God forbidd that I should preach against prayer in a sett forme.

He hath delivered that reverence and obedience must be given to <sup>13. Another head.</sup> magistrates. That at the tyme of the loan he read the Kinges and Councell's letters, and perswaded the people to a liberal contribution.

Another, he never heard him preach against obedience to the  
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magistrates whatsoever, and many witnesses similiter, adding that he heard him preach and say that tribute must be given to Cesar, and on the letters articulate perswaded the people to a liberall contribution for his Ma<sup>ties</sup> necessity. Divers *utraq[ue] parte producti* say that he preached that reverence, obedience, and tribute was to be given to magistrates, and many the testes promotoris witnesse the same, and thirty-six or nere thereaboutes of the promotoris witnesse *nesciunt deponere* for preaching against the magistrates.

14. Another head. That he hath used upon Friday and Satturday to preach for preparacion to the sacrament, especially against such times as he appointed the sacrament.
15. Another head. That Mr Viccars, in the time of his publique fastes, did not observe any extraordinary matter upon those dayes, and it is true some of the towne did shut up their shopp windowes and came to Church, and he used and made four prayers, which held for the space of four houres.
16. Another head. A woman witnesse. That it is true Mr Viccars did use godly exhortations to his parishioners before the receiving of the Sacrament, and did threaten such as will lye in sinne and goe on without repentance, but in generall and not otherwise, and used that which the prophet said to Jehoram, gett thee to thy father's and mother's godes and idoles, &c., but never delivered anything but in generall and without offence to any that he knoweth; and that about 2 or 3 yeares last past he used this exhortation, and none of the charitable sorte of people were offended at the same: Divers wittnesses similiter, and some of the promotoris witnesses *similiter* (as I remember), and 24, or thereabouts, of the promotoris witnesses *nesciunt deponere*.
17. Another head. That Mr Viccars hath given good reverence to the booke of common prayer, and six yeares since he hath heard him read service in the surplis. Heere (or else in the Advocate's speech afterwardes) was read some of Mr Viccars witnesses, that sayd they thought or knew he did not in all thinges approve of the booke of common prayer, and that his witnesses could speake but of his seldome reading it and the Litany.

That M<sup>r</sup> Viccars did never choose any particulare text to ayme at 18. Another any person as he conceiveth, but went on in an ordinary course of head. preaching on some Scripture. Another: He being an ordinary hearer of M<sup>r</sup> Viccars since he came to Stamford, he never heard or knew him to choose a particular text to meet with any man, but went on in preaching on those textes he went on first. Another: That M<sup>r</sup> Viccars followed his textes in ordinary course, and he is perswaded in his conscience he never did take any particular text to vent his spleene on any; and that his sermons were without inveighing at men, and soe were his prayers, as farre as he conceiveth, divers witnesses similiter on both sides produced.

Witnesses on M<sup>r</sup> Viccars' part read, that some of the promoters Exceptions against the Promoters Witnesses that were examined in this cause were such as had contributed towards the charge of this suit against M<sup>r</sup> Viccars, and some of them followed the cause, and some had used divers threatening speeches against him.

Another witnesse on another head: That divers of the promoters witnesses that spake to such an head were capital enemies of M<sup>r</sup> Viccars, and divers of them were backbiters of their neighbours, I doe not raylers and enemies and adversaries to M<sup>r</sup> Viccars, and one of them cursed M<sup>r</sup> Viccars, saying, a pox upon him for a blind beare. <sup>I remember the particular head.</sup>

Another witnesse to another head: That they are a great many of them drunckardes, and were seene to reele in the streetes, frequenters of innes and alehowses, divers swearers and prophaners of the holy name of God, and one of them he heard sweare and curse very bitterly.

DOCTOR REEVES for the Promoter against M<sup>r</sup> Vicars spake to the effect following

May it please yo<sup>r</sup> Grace, The Towne of Stamford being in peace and then troubled thus, as you have heard, by M<sup>r</sup> Viccars, preferred their petition to the Kinges Matie who out of his religious care that justice might be donne referred the same and the matters complayned of to the Lordes of his privy councill who have assigned

this cause to be heard before yo<sup>r</sup> Lo<sup>r</sup>ppes in this Court, soe that you see wth how much care and in what manner this matter is brought against this man: If he be cleare God forbid he should be made culpable but if otherwise we shall crave the just censure of this Court against him. 1. And first we shewe against him as it hath been proved to your Grace that he is a conventicle keeper; The promoters witnesses say he kept conventicles but the other witnesses say they were family duties &c. but they are privat exhortations and expoundinges &c. and he forbides them not to come (although he were a lodger with another man) but admitteth them freely. And now why are conventicles soe odious: 1. But because they are the nurseries of errors and heresies. As privat meetinges are hurtfull to the commonwealth, soe these conventicles are to the hurt and breach of the peace of the church by errors and schismes. Noe man at first upon his owne brayne broacheth his errors, but by being confirmed in them in these privat meetinges, then they sett them on foot, &c., this we take to be fully proved and not denied by him.

2. For that error of his, that whosoever fulfilleth not the whole lawe is accursed, it is a foule heresy, and of very evill consequence. In the time of Constantine the Emperor, one Vosius<sup>a</sup> a Novatian Bishop, had such positions and uncomfortable opinions as these, if any fall away in time of persecution he should never after be admitted into the Church, and that if after baptisme he committed such a particular sinne he should never after be admitted to the Sacrament of the Lordes Supper. To whom Constantine, the Emperor, in dislike and reprove of his false doctrines wrote, that he alone might take the ladder of heaven to himselfe. They that teach this uncomfortable error must needes think highly of themselves and condemne others, and as it were challenge to goe to heaven onely. This our witnesses have proved against M<sup>r</sup>. Viccars. But he would blanch it by saying, he that loveth not the Lord Jesus Christ is accursed, which are the words of the text, but

<sup>a</sup> Called Asetious at p. 224.

then he saith he that keepeth not the commandments loveth not Christ.

3. We have proved sufficiently that Mr. Viccars in his sermon affirmed that there is noe hell but one in preparing onely for the wicked. Indeed, now he denyes this, but he preached it as we prove, but further he blancheth it, saying, that the body of the unrepentant sinner doeth not goe to hell untill the day of judgement.

4. His personall preaching and making the pulpit a cockpit of contention, we have proved that he called a poore gentlewoman whore, and that he reviled another gentleman, a lawyer, particularly, and his tenet is that Ministers may and must deliver their doctrines and reproofes, particularly that the parties may knowe whome they meane, and what ; but soe covertly that the Lawe may not take hold of them ; but I have often observed that they who have gone about to deceive the lawe the lawe hath deceived and taken hold of them.

5. Againe, he blesseth his auditors saying, blessed are they and they onely that fullfill the whole lawe, and makes notes of distinction to the terrifying of the consciences of them that frequent not his conventicles. Alas, where is there any comfort left for men's distracted consciences if these shall be suffered ? We have proved this, but his defence is onely this, that his witnesses say, he preached not soe, but somethinge otherwise.

6. We have proved that in his preaching, he hath affirmed that if any minister have a blemish, that is any sinne, he is noe true minister, and the people are bound to goe from under them <sup>a</sup> to such an able ministry and preacher, and that should teach them new fangles every day. His witnesses blanch it, and say that Mr. Viccars said that those priestes that had blemishes were not to be admitted to the priestes office in the olde lawe, but what will be inferred hence, that upon every sinne committed there should be a separacion

<sup>a</sup> *Sic.*

betweene minister and people? this were to make a rent in the church. But as for those of M<sup>r</sup> Viccars witnesses which contradict the promoters, they are dampned by the order of Court.

7. But he goes on in slandering the practice of our church in observation of the Feast of Christmas, saying that it is superstitious and fynding fault with the tyme as we have proved: against whome I shall produce the authority of Immanuel Poninus in the ould Mimologie of the church, who saith that this feast is and ought to be kept *propter Natalem Domini*, and this was 500 yeares ago: Neither is Mr. Viccars opinion of the tyme by the constitution of the church in those dayes a lawe, and therefore this is enough against him in that he seekes an innovation.

8. Another thing which we have proved against him is his making of notes of distinction which he makes betweene those of his owne family and his children as he calleth them, and the rest of his auditors, and they are sent away with a curse, which how fearfull a thing it is, how not to be suffered out, and how just a cause these men have to complaine against him, easily appeareth.

9. We have proved against M<sup>r</sup> Viccars that he denyed repentance to ould men, that if they were in their youth sinners and repented not till their ould age God would not then accept them: Oh miserable ould men, if this were true; M<sup>r</sup> Viccars hath forgotten that some came in at the 11<sup>th</sup> hour, and the example of the theefe upon the crosse. This man goeth beyond the Italian who saith, Noe ould man feareth God, M<sup>r</sup> Viccars saith God will not heare him though he repent: this is an injury against God, that against man; but his defence saith that some of the promoters' witnesses *nesciunt deponere*. Why, we have proved he speake this by them in whose presence he speake it and who heard him.

9. He hath preached if any man receive money of an usurer he must restore it, but he saith this must be donne when the usurer is convicted; but this is an error of noe great hurt.

10. M<sup>r</sup> Viccars hath preached every minister ought to preach two sermons a day, and the people to heare two, and if they have them

not to remove where they may have two sermons, and that they who preach not twice will never knowe the danger untill they fry in hell for it; but this is lessened thus that M<sup>r</sup> Viccars should onely wish and desire that there might be two sermons a day by every preacher and denyeth that he sayd it was such a sinne when they were not able by sicknesse, &c. but we have proved this, and it appeareth to be a right puritanicall opinion, fit for a puritanical boy.

11. And for that which I am ashamed to speake of for the privacy of man and wife, M<sup>r</sup> Viccars was not ashamed to preach it as we have proved and that amongst boyes and girles.

12. Againe. He saith that to receive the Communion upon any day but on the Saboth Day is superstitious, and none but fooles, &c. Wherin M<sup>r</sup> Viccars sheweth that he doeth not remember the tyme of the first institution of the Sacrament when it was first received, in memoriall wherof Maundy Thursday is denominated and observed, but he saith it is not to be received upon any other day then the Saboth Day although it be Christmas Day unlesse it be in case of necessity, and then he saith the Sacramentes may be used and received. Why we observe the Sunday as well as they. But you see that Puritanisme breakes out in many botches upon him.

13. That M<sup>r</sup> Viccars hath preached against the Booke of Common Prayer; we have proved this and his extolling conceived extempore prayers before it, and his owne witnesses say that they thinke he is noe freind to the Booke of Common Prayer. But this M<sup>r</sup> Viccars would deny, and alleageth for himselfe what he said at other tymes and in private. We deny not but a man of an idle braine may say one thing nowe and another thing contrary therunto at another tyme.

14. Againe we have proved to you that Mr Viccars in his privat meetinges urged his people to the newe covenant, as well he might urge a new baptism. If these things be thus found in your

grave judgmentes to be true we hope you will take care that heer-  
after he be neither a burthen to the people of Stamford nor to  
England.

DOCTOR EDEN urged against Mr Viccars 7 particulare thinges  
untouched by the first Doctor: 1. The canonickall admonition by  
the Bishop of Lincolne. 2<sup>ly</sup>. His preaching against the magistracy.  
3<sup>ly</sup>. His appointing of two publicque fastes upon weeke dayes, when  
he was bound to appeare before the Lordes of the Councell. 4<sup>ly</sup>.  
His personall execrations and invectives before the communion.  
5<sup>ly</sup>. His consolatory letter to them at Stamford. 6<sup>ly</sup>. His new  
opinion about the 6 foulde sacrifice. 7<sup>ly</sup>. His not affecting the  
Booke of Common Prayer. And in general shewed, 1, That of all  
the matters objected against Mr. Viccars some were confessed as his  
conventicles. His opinion of noe communion but upon Sundaies.  
His admonition and divers of his false doctrines. 2<sup>ly</sup> For some  
others there is noe defence, as for conventicles, for particularizing  
men, for not burying of Spire's wife, for the covenant of grace, for  
personall preaching, &c. And for those we have proved against  
him. Though there be exception to some of our witnesses yet we  
have divers preachers, 2 or 3 knightes, 6 or 7 gentlemen and par-  
sons of other places, and diverse aldermen, against these there is noe  
exception. But against some of the promoters witnesses it hath  
been alleaged that they are capitall enemies of Mr Viccars, and they  
petitioned the Lordes, prosecuted the suit heere, and contributed  
towards the charge of the suit. For this the doctor allegeth that  
as he conceiveth it is noe such great offence to contribute or follow  
the suit, seeing there was a commandment for prosecution, &c.  
And Doctor Eden laboured to diminish the defence of Mr Viccars,  
and the testimony of his witnesses in divers particulars. As that  
Mr Viccars (defending his irregularity after the admonition) proved  
he read common prayers once, and (as to those accusations that he  
was more irregulare since, and that it was noted that almost all the  
offences alleaged against Mr Viccars were since the admonition).

That Mr Viccars relied upon this general proofe of many witnesses. That he was and is an honest man and of good conversation. Doctor Eden affirmed these to be weake defences. And whereas Mr Viccars defended his accusation of preaching against the magistracy, and proved that he hath preached obedience and for liberall contribution to magistrates. Doctor Eden alleged that this was weake for (saith he) we doe not deny but Mr Viccars can at some tymes preach soe and sometimes temporise. Mr Viccars defending his two fastes alleged that he used to preach soe at other tymes especially before the Communions. Doctor Eden affirmed this to be an accusation rather then a defence, and that doubtlesse the appearing before the Lordes was the great cause of the fastes, &c.

DOCTOR DUCK for Mr Viccars. Note that before Doctor Duck spake, the Bishop of Canterbury commended the two first Doctors and their faire and moderat carriage of the matter, and the patience of the defendant's parte in tarrying till their tyme to defend; he wished them so to goe on, and to avoyd snapping at one another.

DOCTOR DUCK: We doe acknowledge the justice of his Ma<sup>tie</sup> and likewise the justice of this Court for our favourable hearing, and that we have had this liberty to prove what we could: And for Mr Viccars, I must needes say this to your grace and this Court: That in the agitation of this whole cause, and soe much combating, there hath not beene a blemish cast upon him for his life and conversation. He hath been a publique preacher in Stamford these 4 or 5 years. His adversaries have accused him of divers particular offences, which seeme very greivous, but most of these are endevored to be proved by those that are not Mr Viccars' ordinary auditors, but such as came to catch him in his wordes when they heard him: and this we desire may be noted, that the promoter hath noe witnesses but such as we have taken exception of in almost all the matters. And we must denote further one greate exception in the lawe unto the promoters proofes, and this it is: That they goe about to prove things donne in an assembly and great multitude by a few witnesses, and those to be

subject to a question, and then likewise the rest of their owne witnesses nesciunt deponere. This we take to be a great weakening of the promotor's testimony.

1. The first thing against Mr Vicens is the matter of conventicles. This is one of the best proved accusations, I must confess; but yet, as it was done by Mr Vicens, we hope it will prove noe offence. He used to call the family; he was a stranger and a lodger; they that came, came occasionally, and he preached noe seditious opinions, none proved; nay, we have proved the contrary. Now, we take it that the 73 Canon may give some defence to ministers in such cases, if in such meetinges they preach nothing against the doctrine of the Church.

2. The second thing is that Mr Vicens should preach that if any man fall into the same sinne againe after repentance it is unpardonable; of this there are 5 witnesses, and noe more, and 13 of the promoter's owne witnesses knowe nothing of it, and against 2 or 3 of those 5 there are very good exceptions: and on thother side we have proved that Mr Vicens spake of this point with a great deal of reverence, and delivered, indeed, that such as fell into the sinne against the Holy Ghost could not repent, and that noe sinne but that is unpardonable, if it be repented of, and this we prove to be the effect of Mr Vicens' sermon.

3. They depose Mr Vicens said there was noe hell: but our witnesses maintain he preached otherwise.

4. That he should rayle against a lawyer, but this is a single witnesse.

5. For his opinion that a Christian must fulfill the whole lawe, they endevour to prove this; but he answereth that every Christian by Christ fullfilleth the lawe, and soe his witnesses say he was understood by them. And it is the doctrine of our Homily that every believer doeth fullfill the whole lawe in Christ Jesus.

6. That Mr Vicens should preach if ministers had those vices and blemishes they were noe true ministers; but nine of their owne witnesses heard not this. But we have proved that he said onely

that such were scandalous and fitt to be therfore removed from the ministry.

7. Against Christmas absolutely he doeth not speak ; he usually observeth it himself, onely fell into a question of astrologie, and delivered something about the tyme, in which he is not soe peremptory.

8. We say it is true M<sup>r</sup> Viccars did in his sermon make distinction betweene sinners and the godly, but not as it is articled.

9. It is alleaged that M<sup>r</sup> Viccars should preach against the repentence of ould men; and to prove this the promoter hath onely three witnesses, and 24 of our witnesses say the contrary, and shew what the true wordes were. If they did not repent, as Manasses did, and used these wordes, that such are leaft of their sinnes rather than leave their sinnes, which, indeed, are St. Austin's wordes, &c.

And I shall now conclude this parte of our defence, offering this in generall to your Grace and this Court, that we trust this Court will in their favourable censure respect M<sup>r</sup> Viccars in his probable and just defences; and that if he shall be thought to be guilty of any of these or those that remaine, yet he hopes for favour, and humbly pray you would not cast him out of the Church nor out of the ministry. He is not so obstinat, but willing to recognise what shall be found his fault: And I shall end with this one example of mercy. The Emperor Constantine wrote to the Bishop of Rome that he would not deny *gremium Ecclesiae* to one that had played the apostate, of which he repented, and desired to be againe received, which you shall find in his 45 Epistle. Now, therfore, if in case of apostacy this were donne, we hope we shall fynd the same mercifull sentence, seeing the offences alleged are of a lower nature.

DOCTOR GWYN defended the rest of the particulars untouched by the Doctor that spake last; and for the irregularity which was urged by Doctor Eden against M<sup>r</sup> Viccars upon his admonition given him by the Bishop of Lincolne, Doctor Gwyn shewed that

it was not alleged by the articles in what particulars and for what matters in special the admonition was given by the bishop, or that it concerned any of the offences now complayned of against him; and therfore irregularity could not be grounded upon it: And shewed in generall that it was an easy matter for a company joyning themselves (as his accusers did) to pick holes in any man's sermons for three years' space; and that he doubted if some should be served soe they would not make a better defence then M<sup>r</sup> Viccars hath to every particulare, especially if M<sup>r</sup> Town Clarke were one of the accusers, &c.

In the Court of High Commission, 10 November, 1631.

|        |   |                     |
|--------|---|---------------------|
| Before | George, Archbishop of Canterbury.                     | Commis.<br>sioners. |
|        | William, Bishop of London.                            |                     |
|        | Richard, Bishop of Winchester.                        |                     |
|        | Thomas, Bishop of Coventry and Lichfield.             |                     |
|        | Francis, Bishop of Norwich.                           |                     |
|        | Theophilus, Bishop of St. Davids.                     |                     |
|        | John, Bishop of Rochester.                            |                     |
|        | S <sup>r</sup> Henry Martin, Knight, Doctor of Lawe.  |                     |
|        | S <sup>r</sup> Charles Cesar, Knight, Doctor of Lawe. |                     |
|        | S <sup>r</sup> John Lamb, Knight, Doctor of Law.      |                     |

#### The Sentence against M<sup>r</sup> Viccars.

SIR NATHANAEL BRENT first gave his sentence against M<sup>r</sup> Viccars after a particular scanning and reprehension of many of the offences charged upon M<sup>r</sup> Viccars. He came to refute M<sup>r</sup> Viccars 2 generall defences made on his behalf by Doctor Ducke. 1. The first of which was that he was not of ill conversation, &c. To this

S<sup>r</sup> Nathan Brent alleaged that he was (in his judgement) much to be blamed in his life and conversation; and this proved against him: in that he laboured to gett followers which were of other parishes which had pastors of their owne: and this (saith S<sup>r</sup> Nath.) is a note of singulare pride, and if it cast Lucifer out of Heaven I see not but it may well throwe M<sup>r</sup> Viccars out of the pulpit: Againe in that he did in the pulpit call men dogges, devills, this is a token of malice and malice is of the Devill, of this I thinke M<sup>r</sup> Viccars is not clear, but ought to repent thereof and pray for pardon. 2. But the last is his best defence: If he have offended he doeth humbly pray pardon, &c. It is true if he had donne this at first he had deserved favour, but if he will stand out a long suit, and trouble the Prosecutor, King, and Councell this is not to serve his turne; and, besides, he doeth not confessse his fault, but conditionally, and not clerely. Wherefore he proceeded to his sentence: I hould him guilty of keeping conventicles, speaking against common prayer, &c., and therfore I denounce him excommunicate, and this to be published at Paul's Crosse and Stamford; and that he shall be deprived ab officio et beneficio, but I would not have him degraded, because he is a good scholler and may doe good heereafter; and I think him worthy to pay a fine of 100*l* to the King, and to make a recantation, and to pay charges of the suit to the Prosecutor.

SIR JOHN LAMB: I think this man is worthy to be punished for his offence. His defence is either by deniall or justification, what he hath denied is sufficiently proved against him, and in his justification he fayleth. I thinke him worthie of the sentence imposed, and to be imprisoned and pay costes of suit.

SIR CHARLES CESAR: He spake soe little and with soe lowe a voice that I could not heare him, but I think he gave noe sentence because he was not present at the hearing (as I take it).

SIR HENRY MARTIN: Preaching of the Word of God is one of the best things ordained of God in the Church. We doe all knowe that a faithful and good Preacher is a greate benefitt to the

people where he is; but if a Preacher shall in his preaching corrupt his auditors with lewd and unsounde and pernicious doctrines, and shall abuse their manners with his example of pride and selfe love; this preaching is the most pernicious thing that can be, both to the Church and Common wealth. The thing to be tryed is whether of these two preachers this man is. If he be such an one as corrupteth the doctrine and infecteth the conversation, then he is the worst of men. I doe not take this or that particulare action, but we are to judge by the course of his whole carriage. I heed not repeate all the particulars, but I will touch 5 or 6 particulars, because his Advocate hath seemed to give some defence. His meddling with private matters of marriage in undecent manner, his speaking against Christmas, his consolatory epistle, his canonickall admonition, his new covenant of grace, and some other thinges:

1. He hath undertaken to reprove offences of married persons in publique, which he might have called greate offences; but to call it murther and adultery is too much: S<sup>r</sup> I have heard of a better divine that saith it hath pleased the divine Maiesty out of honour unto the married estate under that vaile to cover many obliquities: being silent of particulars: and for you to proclaime it thus, Sir, it was a sawcy trick.

2<sup>ly</sup>. You speake against the observation of the feast of Christmas, for which offence onely (if there were noe other) you deserve a great censure, but your Advocat saith you were but a little curious on some Astronomicall pointes, which you have read: will you preach what ever you read, then you shall fynd more matter then for keeping Christmas in September.

3<sup>ly</sup>. For the consolatory letter. It is an Apostolicall, nay, an apish imitation of the Apostles, and beares a note of great pride in you: You are called up to answer your schismaticall doctrines, and all that holy St. Paul sayd for himselfe in his Epistles you must apply to your selfe, our King is the Lyon, his Councell Nero; and you have a president which you urge, as Hezekiah that good king spread the blasphemous letter before the Lord soe were your

followers to doe. This I say is profane for you to apply these holy sayinges in that consolatory epistle as you did.

4<sup>ly</sup>. An other thing is the canonicall admonition, but your Advocat saieth it was not punctually for any such thing heere complayned of, but you confesse you had a judiciall admonition. You say my Lord Bishop gave you admonition, and I say you are a very proud fellow upon whome this will doe noe good.

5<sup>ly</sup>. That which your advocate saith there will be noe hurt of it, you urginge people to a new covenant, I differ from him in opinion very much, I hould it is the worst thing against him. You must make a new covenant of grace, as good say men must be baptizied anew. We have all made a covenant with God in our baptisme, and it is that we forsake the Devill and all his workes, the vanities of the world, and the lustes of the flesh, that we beleeve all the articles of the christian faith and to keepe Gode's holy will and commandmentes, and true it is we breake it, but must we make a new covenant when He with whome we made it requires it not?

I will put you a familiare similitude. There is a lease made betweene lesser and lessee, and the lessee doeth not pay the rent for which his landlord may re-enter, but he is willing to passe it by and a new covenant or lease not to be made unlesse he take the advantage of it. Soe in this case, God takes not advantage against us, and therefore noe newe covenant unlesse he had required it. It was your part to exhorte your people to repentance and sorrow for their sinnes and to keepe Gode's commandmentes, but to put their handes to a newe covenant, this, I say, is a most curious and a most abhominable error; and those that will not come to yo<sup>r</sup> unlawfull conventicles, to them you use all those execrations, and if they are not at your preparations, why they are not dogges and hogges as you call them; but for yo<sup>r</sup> covenanters they are all children of God, and the rest must goe to hell.

6<sup>ly</sup>. I charge you with nothing but what you confesse. You say you did not say that he who committes the same sinne againe willfully is damned, but he that sinnes against the Holy Ghost is

damned, and this because he cannot repent, and this you prove by the 6 to the Hebrewes. True, none will say but he that sinneth against the Holy Ghost is in condemnation, but you say in effect, that the second sinne is the sinne against the Holy Ghost, and this you did in a manner confesse before the Court of Informacions, and this is worse then that which Asetius affirmed, to whome the Emperor Constantine wrote (in regard of that his opinion), Hee might make a ladder and goe to heaven alone, for what were his wordes? Those that after baptisme fall into that sinne which the Scripture calleth sinne unto death ought not to be admitted to the Sacrament, but ought to be exhorted to repentance.

7<sup>ly</sup>. For your hell, you did not say there was noe hell, but you say that the body goes to the earth and the soule of the wicked is condemned to hell. Who knowes not this? What need you make this difference?

A little to speake to that which this commissioner next me heere hath mentioned, and your advocat thinkes should procure you favour. It is said you are an honest man of life and conversation, and it is true yo<sup>r</sup> witnesses say you are painefull and industrious; I am soe farre from thinking this should procure you favour that I hould it ought to procure you greater censure and punishment. My reason is, if God hath qualified you with better giftes then ordinary and you take paines but therein give your selfe to doe the Devill service in spreading his doctrines, heerby you much abuse your giftes. Tell me of an heretique but he was of an austere life. Sabatius, a schismatique, was a man of most upright and uncontrollable conversation. Any scholler that heersto fore made any innovation in the church, he was outwardly of a good life and conversation, for it is not a drunkard or an openly wicked man that can make his false doctrines to spread and growe. We are not to judge according to the outward species, for if we could looke into your heart we should see more foule and ugly vices then a deboshet conversation commes to. There lyes at your heart notable pride and superstition; noe matter for breaking the peace of the church;

noe matter for the doctrine of the church, soe you may make a new covenant of grace ; heerin is pride, and you are supstitious likewise. You preferre your honor to Godes, and this is a fouler sinne then profanenesse. Our Saviour, when he sawe the pride of the learned Pharisees, sayd, Woe to you, Scribes and Pharisees, and holdeth them for their learning and austerity two fould more the children of the Devill. And for you to take all your paines, and this to doe hurt in the church, is your greater sinne, and the greater by how much austere and learned you are. Flatter not your selfe nor those that wish you well; if you have any guift use it as you shold to Gode's glory, els you doe the Devill service and may goe to the Devill.

Having said thus much, I goe to my censure. I shold you to be a man that have given yourselfe to raise you a name, though it be with schisme, in the church, and breaking the peace thereof. Your advocate sayd if you have offended you are willing to acknowledge it and to submitt your selfe and recant. If I could see in you a true sence of these evills, and how farre you have gonne, and how much service you have donne the Devill, I would imbrace you. I will not say you will doe otherwise, but you stand heere and will not recant. I therefore concurre with them that have given the greatest sentence.

THE BISHOP OF ROCHESTER. There hath been care taken in this cause to cutt off at the Court of Informations as much as was thought fitt, that we might not in this Court make the cause too longe ; we left out a fourth part of the accusations against him. And this I say, if there had beene noe more then those left out alleaged against him and those not spoken of, it would have troubled the advocate for defence. Of the proofes against him for the particulares hath been enough spoken; I will say somewhat of the first thing, his taking upon him to personate men in the pulpit; but he saith he did not personate this man that hath testifyed against him, and hath denyed it upon his oath, yet 5 witnesses say you affirmed in your sermon you might preach soe particularly

that men might know you meant them, but cautelously that noe advantage might be taken. Let us take your defence according to the rule: the witnesseſſ say ſoe much as they understand in thingeſ and you make equivocall and ſenſelesſe answers; I leave this and your defences to your Lo<sup>rppa</sup>. The thing I would ſpeake unto is this, to ſhewe how great hurt the Churche hath had heerby. But why ſhall we confute that which he denyed upon his oath? The thing that aggravates his offences is his equivocall perjury, he denyeth what he pleaseth, and is not ashamed of itt. But this concerneth the ſtate of the Churche. And in that theſe thingeſ have been donne by this man, I desire that good men will pitty the towne of Stamford and the Churche of England, they are miserably in danger of infection, pray for them. He hath not onely conuenticles, and those not of an ordinary ſtraine upon the ſunday, but upon weeke dayes both in the day tyme and night tyme. But at church the people come to be comforted, there they are wounded with theſe and the like damnable doctriueſ, to fall into ſinne againſt conſcience the ſecond tyme; this is the ſinne againſt the Holy Ghost. But what is this, as St. Jerom ſaith, but to give the Devill to the whole world. And for an ould man that hath ſinned, there is for him noe comfort, noe balme of Gilead; why, because his ſinnes leaſt him and not he them. He that keepes not the whole lawe, he that loveth not Christ is accuſed; true, but you ſay Christ fulfilleth the law for every beleever: why noe Papist ſaith we fulfill the whole lawe but by Christ. You will not keepe company with thoſe that are not brought to come to your conuenticles. But the Towne Clarke is wiser that hath been played upon. A man muſt not lyue with his wife but by direcione; noe man muſt dwell in a paſh but where two ſermons are every ſunday. Noe man muſt be admitted to his conuenticles but thoſe that will enter his covenant of grace, the firſt parte whereof is a covenant of ſecrecy. Though there be a Nunnery and a ſix foulde ſacrifice in Stamford, the Magistrate muſt not meddle, for then he draweth his ſword againſt the godly, and if he drawe his ſword againſt the ſword of the miniftry, remove

such a Magistrate. What doeth Mariesus<sup>a</sup> the Jesuite say otherwise? If the Lordes of the Councell send for him, the poor people must come to church and leave their shoppes, if not a thunderbolt is discharged upon them. They must come to their preparations Friday and Satturday, els Dogge! Devil! This was a good cause for the people of Stamford to complayne unto the King. His name is Viccars but he hath donne things becomming the vicar of hell, the vicar of Rome. How many hath he deprived, degraded, calling them unlawfull ministers noe ministers, except they preach twise upon the Saboth day they are in danger of hell, oh! better his tongue cleaved to the roofe of his mouth: How many fellow ministers are by him not onely censured but condemned to the pit of hell? What good could there be of this preaching, they cannot answere, it makes the people have an ill opinion of them, what purpose is it to speake against them soe? When vicious preachers come before us let us censure them, but to what use can it be to declayme against them in the pulpit.

For the Churche of England they must not follow antiquity but alter their solemne times according to M<sup>r</sup> Viccars; I will not say it is not unfitt to receive upon Thursday it is not fitt but herein he is beyond the marke to say they are idiotes, asses, dunces, fooles, who doe soe receive, whether Bishops, Kinges, who soever. When people come to the Sacrament they are met with execrations, and why, because they come not to their preparations; if this course should be tolerated it would bring on auriculare confession. He bringeth in the 7<sup>th</sup> of the Acts, first part, where he saith they received upon the Saboth day, and Tertullian to that purpose, But wherein is the letter of new testament broken if men receive upon another day? St. Austin in his Epistle to Conradus saith many used to receive the Sacrament every day and some seldomer, but looke to the face of the Church and every man may use his conscience.

<sup>a</sup> ? Mariana.

I declare therfore the horrible wrong donne by you to Stamford and the horrible wrong to the Church of England, Noe Minister, no Magistrate but such as he will like of: Therfore as he said, I have cutt off fingers and toes, soe God hath donne to me, fforasmuch as you have deprived so many, I adjudge that you be deprived and degraded, that you pay an 100*l* fine to the King, that you make recantation at Paules and Stamford, that you pay costes and be imprisoned till the Kinges Ma<sup>tie</sup> and this Court be pleased to inlarge you.

**THE BISHOP OF NORWICH:** This man is to be for his false doctrines and malicious conversation sharply censured; Among his doctrines 3 are hereticall, the rest smell of heresie and are *temeraria*. 1. That noe place for repentance is leaft to ould men; and 2<sup>ly</sup> to sinne. The second sinne after repentance is the sinne against the holy Ghost, if this were true then repentance were a snare, for then if one sinne after repentance then he can never repent for it is the sinne against the holy Ghost: wiser men then you doe not knowe what the sinne against the holy Ghost is. When I lived heere divers about this city came to me to be comforted doubting they had committed the sinne against the holy Ghost, but I ever told them that sinne is not but where there is a malicious denyall and rejection of the bloud of Christ: but let this goe. 3<sup>ly</sup>. That there is noe hell! an error for which Origen is condemned. The article of our creed is, he descended into hell, and if that we are to believe he did descend into hell then there is such a place.

But now for your *temeraria*: and this is when a man commandes or forbiddes without warrant from Christ, his Apostles, or the Church, your six-fould sacrifice, which every Mr of a family is to offer upon the Saboth-day, as you say, it is not possible through a kingdome or a church to performe it, then all the kingdome profane the Saboth, and then all servantes must come out of their masters' service because they cannot have such masters as will keepe such sacrifices, and soe you will overthrow the state of the kingdome. And that ministers and pastours must preach twice

every Saboth-day, or els they are in danger of damnation. Heere you are very sawcy against the Church of England Canon 45, and against the his Ma<sup>ties</sup> instructions, which appoint that sermons in after-noones be turned into chatechisings, as worthy an ordinance as any in the Church, but in sted heereof you turne an olde man into hell.

Againe, you are against the Church in matter of Marriage, which you shall fynd in the booke of common prayer, which sheweth three endes of marriage, but let that goe. And that our Saviour was not borne in December, and men ought not to receive but upon the Saboth day. 13 Canon the Church opposeth. Againe, sett prayers are not soe effectual. Heerein you condemne all churches. Why should there not be extemporary hymnes and songes, as well as prayer? I see noe difference. Then your pointing out men and terming them Devills, Dogges. Now, I knowe not if they were vile men, yet you should have used gentlenesse towardes them—deale not with them as enemies, but as brethren. But one thing affectes me most of all: you doe labour to bring the publique service into disgrace and into contempt, and you have brought it soe to passe in the kingdome that people doe not regard the publique prayers of the Church, wherein, noe doubt, you have the devill of hell your captaine, who hateth Godes worship most of all. How necessary is the service and worship of God! by it we impre-  
trate all thinges, &c. You doe not read divine service, you doe not honor it with your presence. I will tell you I preached myselfe as well as you, and I read it often, and for this reason, that I might bring it into regard among the people, where, when I came, I found it at first much neglected, but at last they had good respect to it by my meanes, I thank God. This is therfore your folly, your saucy and extreme scandall. We punish our adversaries for not comminge to the service, and you preach it is superstitious and a paire of tarr-irons. If you amend not, you deserve Godes heavy judgementes. For your offences, for the most part, you deny all; that which ministers and men of worth sweare you deny; other-

while you equivocate. But you say extemporary prayer, and you cannot remember what you sayd. For my censure, you deserve the sentence of excommunication for refusing to bury upon the Sabothday, and in a great number of thinges you have incurred that censure. I think you worthy to be deprived of this place and living, to pay expences, to make a fine of 100*l*, and an acknowledgment of your errors; ffor degradation I cannot tell, you may remember yourselfe. But the mischiefe of these thinges makes the matter hevier, for, take away the orders of the Church, and shall we not be as beastes. I doe not give my sentence upon any heady braine, therfore I hould you worthy to be suspended for seven yeares; and in meane while to reade the Canons of the Church and the booke of common prayer, and reade over these learned men that have written of it—Whitgift, Hooker, and my reverend Lord heere;<sup>a</sup> and at seven yeares end, if please God that you reforme yourselfe and become a dutifull member of the Church, to be restored to the office of the ministry.

THE BISHOP OF ST. DAVID'S : This man's very wordes and workes, in every man's judgement, are allready condemned. If I should goe over every head of his accusations, I should then spend as many dayes in sentenceing as we spent in bringing it to judgement. It is some cruelty to put a condemned man to a lingeinge death. To those thinges which have been wayved and lessened by his learned advocates I say little. Onely his conventicles being blanched by the name of household duties, this is not to serve his turne. And for the Apostolicall Epistle I thinke it noe better than a scandalous libell against this state, as if the governement under our religious and gracious King were like that in the tymes of Nero and Mary. For his holy covenant and execrations at the communion; and for the turning of God's oratorio, the pulpit, into a place to vent his malice upon the poore people, for these four I appoint him for punishmentes, costes of suit, to pay a fine of 100*l*, to be deprived of his benefice, and that all pulpittes be shutt

<sup>a</sup> Bishop Morton.

against him for three yeares. And though he be unmercifull to us olde men, yet we are soe mercifull to him that when he shall repent the bosome of the Church shall be opened to him; yet soe as not to exercise his ministry in Stamford, where he hath made soe great a breach of peace. And I end with what one of his advocates ended with: That he hath not any fault layd to him greater than apostacy, whereof one repenting, the emperor desired he might not be received into the Church. This made me more propitious then any of his defence or learninge.

THE BISHOP OF LICHFIELD: I am perswaded that there is scarce any minister that preacheth consonably but he hath in experience found that many, through weaknesse or want of attention, have misconceived his doctrine. Soe did the Jewes misconceive our Saviour, when he sayd, I can destroy this temple, and raise it in three dayes; they understood him of the materiall temple. I wish that all these thinges against Mr Viccars were misrepresentations. But I say that in opinions of this nature great care is to be had to suppresse them. He saith they, and they alone, are blessed who performe the whole lawe, and leaveth there, not shewing whether he meant a legall or evangelicall keeping of the Commandments. But every man must depart from a scandalous ministry. This is plaine Donatisme, and it is to teach men to have the word of God in respect of persons.

Philip[pians] i. St. Paul rejoiceth if Christ be preached, though by some he is preached of envy. That to relapse into the same sinne is the sinne against the Holy Ghost; why, all are transgressors, David committed adultery and murther, and he that transgresseth one commandment is guilty of breaking the whole lawe, because it is a contempt against God, the Author of the whole, and yet none of these the sinne of the Holy Ghost.

The next is his translating of the feast of Christmas; this is the most notable to discover his spirit. He seekes quaint and [ab]struse authors, Canditius, &c. What need he preach this if it were soe; many truthes are to be concealed; our Saviour sometimes concealed

his person. This is, at the least, indiscretion in him, and scandalous, by reason he makes a wound and layeth not a playster: if his ignorance would have given him leave, &c.

Olde men's repentance is too late. My brother that spake last should have been more offended at this. We are to teach this young man a better lesson. He saith God will not accept them; noe, though they seeke repentance with teares because their sinnes leaft them, not they their sinnes; I take his owne wordes. He divideth men into two sortes: may young men be acceptable and not olde; is there any respect of persons with God, olde and younge are personall; whosoever repenteſt him, and it is now day. Againe, some were hired at the 11<sup>th</sup> hour. This is therfore plaine ignorance in him. He saith that old men's seeking repentance with teares is but crying and howling. Why, are not teares true tokens of repentance? But who art thou that judgest another man's servant, &c.; you will crosse the minde of Christ, who saith, Come to me all yee that are weary and heavy laden.

For usury. That the labourer must restore the money gotten by usury to the borrower when the usury is convicted: what relation is there betweenc the labourer and the borrower? We yeeld that the borrower may in some cases partake of the sinne with the lender upon usury, but the third person that for his labour receives the money gotten soe from the lender is not to examine how he came by it.

Incontinence in the married state. My friend, you have your opinion from a wrong ground, the Leviticall lawe; there is a sanctification leviticall, and that which is accepted now in the tymes of the gospell, and not to diserne these two breedes confusion and causes impious and sacrilegious opinions. Marriage is honourable and the bedd undefyled, &c.

Communion not to be but upon the Lordes day. Why we have antiquity and scripture for it, because in the Apostles' tymes it was celebrated every day; and the circumstance of tyme must not be observed nor the circumstance of place soe strictly. Why then shall it not be administered and received upon any of the 6 dayes;

but in case of necessity you say it may. Acts 2, 4, 6, They continued dayly in breaking bread from house to house. You that sayd even now that there must be two sermons every Saboth day, where doe you read that the Apostles preached twice every Lordes day?

For your refusing to bury upon the Saboth day, it is a religious worke, and there is noe tyme fitter for it then this honourable day.

To omitt yo<sup>r</sup> execrations at the communion to say a little—it is the cup of blessing ; blesse I say and curse not, saith the Apostle; but you give 2 curses for one blessing.

The last I will note is the most notable of all the rest, the new covenant of grace, he mistakes his text for this likewise. There is but one baptisme, but one covenant, as there was in the olde lawe, but one circumcision, one covenant, one Christ. God himselfe hath given us an example when his Church played the harlott, returne, returne againe, &c. noe new covenant to be made, &c. this is the holy doctrine of our church.

To conclude some of these are temeraria, some hereticall blasphemous and scandalous, you have been a man egregiously proud and exported w<sup>th</sup> a spirit of singularity, for my censure I shall concurre in all that hath been given against him, saving I would have him be suspended but for 3 yeares, &c.

THE BISHOP OF WINCHESTER: He hath violated the unity of the Church, and by his seditious courses much disturbed the peace of it: and these are continued and settled courses in him, for I must say to you I remember since his first comming to this place I have allwayes heard of it; he hath good partes I knowe if he had grace to use his guiftes. His learned diocesan was feigne to come to Stamford to inioyne him a recantation. If he had left heere he had donne well, but he hath disgraced the pulpitt and profaned the holy Sacrament by his execrations, and I fynd him to have kept conventicles, yea at those tymes when there hath been publique prayers in the church he hath held his conventicles, I was my selfe in the towne and heard of it at the tyme. I conceive the thing

that led him on to these offences and erronius opinions is singularity and neglect of duty in him, as in many others. He hath not taken paines to read the booke of common prayer, the booke of homilyes, and the canons, but taken a pride to runne contrary to the stremme of them; would he have runne into these and that of the new covenant, which is to nullify the first covenant, if he had knownen the meaning of the Sacrament, not to speak of all.

I doe remember it was sayd by one of the Advocates, that it is hard for a minister to be compelled to give an accompt for every thing he saith in the pulpitt for the space of 4 or 5 yeares, I will not speake against preaching, God forbidd, nor against those that preach twise upon every Sunday, God continue them able to doe soe, but I would he would preach lesse and consider what he saith, and be able to give accompt what he doeth say, and thus he shall doe more good with one sermon in this sort then with two in his manner; but I think as his prayers are soe are his sermons extemporary; preach a little lesse and study a little more. ffor his opinion of deposing the magistrates, it doeth not rest at the magistrates of Stamford. I doe therfore censure with S<sup>r</sup> Henry Martin, and doe subscribe to the divine-like speech made by him, onely I adde one thing, that is, if he looke for any favour that he first remove himselfe from thence for if he remaine in that country he will nothing but drawe conventicles. What Doctor Ducke sayd, I would he had taken hould on.

THE BISHOP OF LONDON: There hath been so much said that I have little now to say, yet that I may speake breifely and soe discharge my conscience. 1. ffor his conventicles, there is an extenuation not a defence, but in a minister the offence is greater. 2<sup>ly</sup>. The denyall of repentance to those that fall into the same sinnes—his deince was, &c. This is hereticall. Saint Peter sinned the same sinnes 3 tymes one after another. 3<sup>ly</sup> Noe hell prepared : the defence was that it was not prepared for the body till the day of judgement: Tophet is prepared of olde, He descended into hell, therfore there is a hell: The Councell sayd heere was but two

witnesses to prove this, and that is enough as the Scripture saith, in the mouthes of two or three, &c. 4<sup>ly</sup>. Particulare charging men in the pulpitt, and his opinion is Ministers may doe soe, soe they have regard to their owne safety not to fall within the lawe, noe matter for the safety of the Church of the Canon of Religion: but your defence is you never chose a text purposely, but you did it though you chose noe text on purpose but for ought your witnesses knowe you might. 5<sup>ly</sup> Performance of the whole lawe: Some defence hath been offered that men cannot performe the whole lawe by themselves but by Christ, who denyeth this but a Pelagian. Christ hath taken away the curse of the lawe. Some would have noe lawe; you say the very curse is not taken away. 6<sup>ly</sup> For the blemishes that those that are scandalous and blemished are not true ministers, it were to be wished there were noe such ministers, but doe they fall from the ministry? Yes, say you, as the Leviticall lawe made the blemished noe priestes soe these noe ministers, soe they are not lesse decent, but none at all. 7<sup>ly</sup> For your Christmas day, you call it superstitious, &c., and not kept at the tyme: Doeth the Church of England keepe it for a better dinner? It is not a matter of Kallender onely, 500 yeares since by the joynt consent, St. Crisostome, &c., you have a learned man for you, who as he was learned yet did not understand, &c., and I say, Let him that will come forth and shewe good groundes against it out of antiquity. 8<sup>ly</sup> For your differencing the fearers of God and those that doe not, all men make a difference, but you judge an other man's servant; you say these are your sonnes, you are Apostolicall. 9<sup>ly</sup> An olde man cannot be saved that doeth not repent in his youth: what became of Manasses? He was olde, he forsooke not his sinnes till they forsooke him: and take heed, remember your owne doome. 10<sup>ly</sup> ffor money gotten by usury whosoever hath it must restore it to the borrower: the defence is if the usurye be convicted: why is there noe usury but convicted usury? There is usury in *Foro conscientie*, and shall a poore man that laboureth for his money examine how it was gotten whether by usury or not? Money hath

noe eare marke. 11<sup>ly</sup> If there be not two sermons preached every Sunday he that hath charge to doe it shall fry in hell. I will not say let there be noe preaching, let there be discreet preaching, but such as this doeth a great deale of harme and but little fruit hereof to be expected, rather to be desired that such hould their peace: You say they shall fry in hell, and that there is noe hell, truly these thinges *non bene convenient*. 12<sup>ly</sup> You are a bachelour and soe am I, you are very violent against that honorable estate and very bolde against the Church of England, which hath expressed those endes of marriage, and a man may marry that is stricken in yeares, and now doe you thinke the church makes such remedies that are worse then the disease? That a man must not marry that is in yeares under danger of murther and adultery; if I were not forced to this haste these thinges would be longer insisted on. 13<sup>ly</sup> Noe receiving the communion but upon the Saboth day: I am noe enimy to the word, but if you meane the Saboth day that is nowe in the newe testament, then your opinion is for receiving on our Satturday, for in all our returnes of lawe and statutes before the reformation the Satturday is called the Sabbath. 14<sup>ly</sup> Your preferring of conceived extempore prayers before sett prayers. Your defence is you condemned hippocriticall prayers: Why we disapprove and detest lippe labour as well as you, therefore this is a mere tergiversation: your speeches were directly derogatory to the prayers of the church, and this is proved by your owne witnesses: Your advocates sayd you tooke paines more then you have thankes for, I think soe too, alasse it is not preaching often but discreetly is most proffittable and to be esteemed. 15<sup>ly</sup> Noe buriall upon the Sabbath day: It is a worke of piety and therefore to be donne upon that day that is kept in memoriall of the resurrection of Christ and our redemptions wrought by him: and to deny buriall is to adde affliction to the afflicted. 16<sup>ly</sup> For your covenant of grace; you offer noe defence for it, it cannot have any; I have heard the same is likewise practised in the West of England, what their ground and warrant is I knowe not: for the thing it selfe, the new covenant, if you call it

soe, then it is that which is made in baptisme, but if you meane by it an act of repentance then it is not a new covenant, and you should have given it the olde name. 17<sup>ly</sup> For your canonicall admonition, I wish the causes of it were sett downe in particulare, I should have punished it. 18<sup>ly</sup> You will not have the magistrate drawe his sworde, if you doe ill. 19<sup>ly</sup> Your conventicles upon Friday which you call preparations; I will not say it is unlawfull to preach before the Communion, but why this new course should be sett up by some as it is, I doe not say it is well donne of them: this is also practised in the West; thus making a church in a church. 20<sup>ly</sup> Your execrations at the tyme or before the recciving the Sacrament, as Dogges, Devill, and Damnation, and yet you yourselfe can instantly receive the Sacrament, which is profanation of the holy Sacrament by you, and these are the two greatest things against you. You refuse the exhortation appointed and allowed of and frame something of your owne; I wish that you and others that are soe ready to fynd faultes were sett to mend the booke of common prayer: I am confident if you were you would make it worse. 21<sup>ly</sup> For your letter to the brethren: I houlde it to be scandalous to the Church and State, and the Church you hould to be noe true Church though it christened you. 22<sup>ly</sup> Your six fould sacrifice hath noe defence. This was never read in any anciente Fathers; learned Authors. This must of necessity breed sundry great mischieves to the comonwealth. Servants leave their masters, if they cannot be where they may enjoy 6 sacrifices, and a 3 fold sacrifice for the weeke dayes: heere is a mistery of iniquity, thus you bring your people to your conventicles and to the Devill to be feared &c. 23<sup>ly</sup> Your speaking against the Booke of Common Prayer: you term it a superstitious service: yet you reade it, but you reade it seldome and you curtale it, you would thus put an high imputation of superstition upon the Church of England.

To these your defences in generall are two, the first is a cleare testimony, that you are an honest man: now this shall make me censure you the deeper, God hath given you grace, and you to runne

into nothing but to make the people beleive your scandalous errors. Your second defence was that some of the wittnesses against you are drunckardes and contributors to the suit against you, but many are not soe, nor soe, God forbid you should be denyed *gremium Ecclesie* upon your repentance and submission, but to receive you againe *in ordinem* and into your place your Advocate did not shewe that.

My sentence is that, as you are excommunicate by the Canon of the Church soe I (*quantum in me*) doe declare you to be I agree with your suspension for 7 yeares and deprivation from your living; and that you enter into bond and security not to goe to live there; the security to be given to this Court and my Lorde's grace. I am for your degradation: my reason is because of your many other faultes besides these, and for discouragement to all such as you are: imprisonment till you bring in your orders, and to make confession at Paule's Crosse, howsoever at Stamford and to pay costes of suit to the prosecutor, and, but not to lay too much upon you, I would send you to Bridewell to beare Lane<sup>a</sup> company, and see whether you can bring him to your opinion.

THE ARCHBISHOP OF CANTERBURY was but short in his sentence but condemned Mr. Viccars as sharply as any and agreed to the highest censure, &c.

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<sup>a</sup> See p. 194.

In the Court of High Commission, 17<sup>o</sup> Novembris, 1631. Annoque 7<sup>o</sup> Caroli Regis.

|        |   |                     |
|--------|---|---------------------|
| Before | George, Archbishop of Canterbury.<br>William, Bishop of London.<br>Thomas, Bishop of Coventry and Lichfield.<br>Theophilus, Bishop of St. Davids.<br>ffrancis, Bishop of Norwich.<br>John, Bishop of Rochester.<br>Sr Henry Martin, K <sup>t</sup> Doctor of Lawe.<br>Sr Charles Cesar, K <sup>t</sup> Doctor of Lawe.<br>Sr John Lambe, K <sup>t</sup> Doctor of Lawe.<br>Sr Nathanael Brent, K <sup>t</sup> Doctor of Lawe. | Commis-<br>sioners. |
|--------|---|---------------------|

It was moved by DR. EDEN in a cause of Simonie, that whereas Simonie. that whereas the promotor had put in articles of Simonie into this Court and the while had two actions at Lawe depending for the same and the declaracōns put in, that this court should hereby be made an instrument for other Courtes, &c. therefore he prayed the cause might be dismissed the Court. It was answered by the Advocates on the other side that the promotor would relinquish his suites at common lawe and would proceed to have it tryed onely in this Court: It was ordered that upon very good bond that the defendant should not be brought to the common lawe during this suit for anything conteyned in the Articles and that a better prosecutor were to be founde or sufficient bond to pay charges in case it should goe against the promotor it was ordered to be intertained heere.

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Mr. Hadley,  
parson of  
Ashcott in  
Somersetshire. In a cause against one Mr Hadley of Ashcott in Somersetshire being a cause *ad audiendum voluntatem* whether it should be reteyned or noe. S<sup>r</sup> NATHANIEL BRENT declared the cause he being (as he affirmed) the onely commissioner now present that was at the Court of Informations, He shewed that divers booke<sup>s</sup> were produced by the Advocates on both sides in this cause, out of which booke<sup>s</sup> it was agreed there were 3 wayes of dismissing of causes in the Lawe Ecclesiasticall, the first *ob innocentia partis*, in which case the cause was never after to be reteyned; the dismission of the second nature was *ob observatione judicii*, wherein the booke<sup>s</sup> also agree that the cause is not after such dismission to be reteyned. And thirdly there was a dismission *quia non probatum fuit*: and heerein the booke<sup>s</sup> doe differ some being that they doe reteyne such a cause and some that they doe not, that there was lawe and that very good Lawe too on both sides, and that the practise at this day in Italy is to reteyne such a cause, but in Spain they doe not. And that of this last kinde this cause was, and declared it had been referred to the late Bishop of Welles, Doctor Lake, who had reported it was a cause fitt to be dismissed and then it was dismissed, *quia non probatum fuit*: Afterwardes the cause was againe brought into this Court and commissions went downe into the country to examine witnesses, but by a misnomer the commission fayled in execution and thereupon the cause was againe dismissed *quia non probatum*, and thus it rested now in the power of this Court to reteyne it or dismisse the cause.

DOCTOR GWYN moved that he was a Minister and a Minister's sonne, and a chapelein to the late Bishop Lake and that he was a man well-beloved among the Canons of the Cathedrall church at Welles, and shewed the mistake in the Commission was soe voluntary on the promotors parte that it could not be but of purpose and therefore the Court was rightly of minde that it was so donne because he could not prove the articles, it being a mistake of noe lesse then the countys name where the Commission was to be

executed: and prayed because there were two former dismissions of this cause that it might be noe more reteyned.

S<sup>r</sup> HENRY MARTIN was of opinion if the cause were of very foule and heynous matters then it were to be reteyned, els not but for the reverend Bishop's sake whose chapleyn he was for his parte inclyned to reject the cause. THE BISHOP OF ROCHESTER was of the same minde, and gave this reason, that if causes should be thus reteyned men should not knowe when they had an end of their causes. THE BISHOP OF ST. DAVIDES was inclyned to dismisse the cause and would not have it the scandall of this Court to holde suit upon suit soe that men may have noe end, though it be spoken of other courtes. And the rest of the Commissioners were of opinion this cause was not to be reteyned.

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It was alleaged that the prosecutor had a bill in the Exchequer M<sup>r</sup> Stanton. against M<sup>r</sup> Stanton and others, and a *quare impedit* at common lawe and yet he had preferred Articles heere and soe intended to make the suit heere serve his purpose in those courtes therefore Dr Ducke moved the cause might not be received in this court: And forasmuch as it was not knownen to the Court whether the Bill in the Exchequer were put in and the declaration at common lawe therefore it was referred to one of the Doctors of the High Commission to certify, &c.

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A cause begunne against Anthony Hartford curate for Paul M<sup>r</sup> Hartford. Godwin, Doctor of Divinity, vicar of Bemister in Dorset shire. DOCTOR EDEN shewed that this cause commeth into this Court by reference from the Lordes of the Privy Councell to whome it was committed by the king himselfe upon a petition to his Ma<sup>tie</sup> pre-

ferred by the constable and others of Bemister for very foule and high offences, and that his Ma<sup>tie</sup> gave order his licence should be nullified. DR. EDEN therfore moved he might be suspended till the cause were heard: THE ARCHBISHOP called for the petition to have it read once or twice, but they did not produce it: howbeit I heard the petition was exhibited against M<sup>r</sup> Hartford and one John Crabbe charging Hartford of and for wordes and other thinges tending to sedition and Crabbe of other offences, the wordes were these or such like spoken in Latine, that *Juvenile Concilium est privatum commodum*, was a coat cutt fitt for the backe of the State: The King being petitioned at Woodstocke referred the consideration heereof to his Privy Councell who againe referred Hartford to be tryed by the High Commission Court and Crabbe at the Assizes in the country before the Justices of Assize.

DOCTOR DUCKE shewed that he was a poore curate in Bemister under Doctor Godwin and that he had a certificate from Doctor Godwin and from 20 Ministers more of the countrey whose names he read. THE BISHOP OF ROCHESTER desired much to see Doctor Godwins name to his certificate. DOCTOR DUCKE shewed it was a new way found out for people when their Ministers please them not, to picke up matters and petition the Lordes, and they send it hither, and soe it commeth recommended to this Court with more earnestnesse: and therfore desired M<sup>r</sup> Hartford might not be suspended upon a bare accusation.

THE BISHOP OF LONDON found fault with this latter end of his Chancellor's speech and said the Lordes had donne well to referre it to this Court: The Bishop shewed he was complayned to of this man before this tyme and he sent for him and gave him advise, though he were not of his diocesse yet he thought good to advise him, and bidd him him goe home and gaine the love of his flocke by his conformity: but that after this the next newes he heard of this man was at his being present when this petition was delivered his Ma<sup>tie</sup> at Woodstocke, of such foule matter that his Ma<sup>tie</sup> thought good to referre it to his Councell and they had thought good to deliver

it over to this Court. But for the certificate (said THE BISHOP OF LONDON) I doe not like it in this, what are we fallen out with our anncient titles, Parsons, Vicars, &c. all preachers of the Word: Doctor Ducke read them againe and it appeared it was but a mistake and some of their titles were not read at the first reading of the certificate. THE BISHOP OF ROCHESTER shewed he was once Deane of Salisbury and that this Bemister is a market towne and one of the greatest congregations the Deane of Salisbury hath in his jurisdiction and that this Hartford had required a licence of him to preach in his Deanery but he had denyed him: He then appealed to the Audience and there of Sr Charles Cesar he gott this licence which was to preach there during this appeale, now therefore let this licence be suspended from it vertue and power for that it will be dangerous for him to goe downe and make worke againe in the countrey: And (said DOCTOR EDEN) what doe they certify? that he is an honest man and a painefull preacher that is all. And THE BISHOP OF LONDON affirmed that D. Godwin's certificate was not heerein to be respected because this man serveth his cure for nothing and he cannot get one at that rate elsewhere. Soe said the ARCH-BISHOP we suspend the power of his licence *valeat ut valere potest.* and he tooke his oath to answere the Articles.

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M<sup>r<sup>is</sup></sup> Sompson desired by her <sup>a</sup> Councell that she might have a M<sup>r<sup>is</sup></sup> Sompson. seate in the church (which church was in the Diocesse of Winton) till the cause were heard in this Court, she shewed that she was placed in her seat by the Ordinary of the place, the Bishop of Winchester, but the church wardens clayming to have the power of ordering the seates without the Ordinary locked the doore, put in

<sup>a</sup> His in MS.

another and sett lowe buttons to keep her out: And it was alleaged there was a disturbance heere about every tyme they mett at church and that this cause against the churchwardens was not to be favoured because they had denied the jurisdiccion of the Ordinary: Yet this was not granted as it was moved for feare of continual disturbance: The BISHOP OF WINTON found fault with setting lockes upon pewe dores and affirmed it was unfitt to keepe out a stranger that commeth to the church, if he be of good fashion he is not to stand in the alley: and THE BISHOP OF LONDON found much fault, for that almost in every place there were contentions about seates and pewes and affirmed he thought there was better serving of God when there was none at all.

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Mr Geeringe. Articles were now putt in against one Geering Minister at Teuxbury, who was required to take his oath to answere and he did soe:

THE BISHOP OF CANTERBURY asked what the cause was against him and what he was and it was answered by THE BISHOP OF LONDON, that this was the man upon whose preaching one at Teuxbury threwe himselfe into a well and drowned himself. THE BISHOP OF LONDON reproved him also for wearing such a band being soe curiously sett and too bigg.

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Search for  
Romish  
Priestes.

Attachments were granted against two or 3 Romish recusantes for refusing to lett the messenger of the Court search for Romish priestes and for shuffling away their superstitious ornamente and hideing them from the pursuivant, and especially there was oath made against one of them, I thinke it was M<sup>r</sup> James Godwin of Welles in Somerset shire, to this purpose that when the messenger came to his house to search and had assistance of two verderers or

tything-men, Mr Godwin himselfe, tooke the messenger by the shoulder drewe his dagger and in furious manner bidd him shewe his warrant which he read and gave it a little rent, and soe held the messenger in talke till they were ready within and had shuffled almost all aside, there stooode the altar a pott of water with a sprinkler in a chamber which he thought was holy water but they found noe priest: and heere or in an other place the Messenger had taken away a priestes girdle and they sent to a justice of peace and charged him with stealing a silke girdle.

There was an affidavit also made against the Parish clarke of the Tower of London and others for rescuing the clarke from Tomlins or Crosse the messenger, being sent for by the court for celebrating of marriages in the church in the Tower without licence and without any banes published. Therefore an Attachment against the Clarke.

Marriages  
without licence  
or banes.

In the Court of High Commission, 24 Novembris, 1631. Annoque 7<sup>o</sup> Caroli Regis.

|        |  |                     |
|--------|--|---------------------|
| Before | George, Archbishop of Canterbury.                                      | Commis-<br>sioners. |
|        | Willm, Bishop of London.   |                     |
|        | Thomas, Bishop of Coventry and Lichfield.                              |                     |
|        | Richard, Bishop of Winton.   |                     |
|        | Francis, Bishop of Norwich.  |                     |
|        | John, Bishop of Rochester.   |                     |
|        | S <sup>r</sup> Henry Martin, K <sup>t</sup> D <sup>r</sup> of Lawe.    |                     |
|        | S <sup>r</sup> Charles Cesar, K <sup>t</sup> D <sup>r</sup> of Lawe.   |                     |
|        | S <sup>r</sup> John Lambe, K <sup>t</sup> D <sup>r</sup> of Lawe.      |                     |
|        | S <sup>r</sup> Nathanael Brent, K <sup>t</sup> D <sup>r</sup> of Lawe. |                     |
|        | [Thomas] Goad, Doctor of Divinity.                                     |                     |
|        | [Hugh] Barker, Doctor of Lawe.   |                     |

A cause against Doctor Hooke, parson of Nettleham in Yorke shire came to be heard this day.

The Articles against Doctor Hooke were 6 or 7: 1. For saying he resigned his archdeaconry because he would be ridd of those caterpillers and cankerwormes the Ecclesiasticall officers. 2<sup>ly</sup> For delivering his opinion at Yorke before the Justices of Assize that he helde it unlawfull for Priestes to exercise any temporall jurisdiction. 3<sup>ly</sup> For making licences for marriages without publishing any banes at his viccarage of Castor and that to persons dwelling in other parishes and that he used a little seale, and that he married some himselfe and tooke money of them for the licences, &c. 4<sup>ly</sup> He was accused of 6 or 7 severall adulteries, he himselfe being a married man. 5<sup>ly</sup> He was charged with the simonaicall resignation and bestowing of his viccaridge of Castor upon a young man, a minister, that was noe party to this suit. 6<sup>ly</sup> He was articled against for a contempt offered to this Court by wordes, &c.

1. The prosecutor proved the wordes spoaken against the Ecclesiasticall officers: Dr Hooke denied it and affirmed in his answere he resigned his Archdeaconry willingly.

2. The promotor proved he affirmed in a sermon preached at the Assizes at Yorke upon Romans 13. 1. That it was onely not fitting but unlawfull and inconvenient that an ecclesiasticall person should use any temporall jurisdiction. Another of the promotor's witnesses proved that Dr Hooke then delivered wordes to this purpose that he helde it not convenient that any ecclesiasticall person except he were a Bishop should be a justice of peace, and a third witnesse proved the same wordes, and that he affirmed for his reason that he never read any auncient author that writeth otherwise and justyfed his opinion further by this of our Saviour, who made me a judge over you?

3. It was proved that Dr Hooke being vicar of Castor gave licences to some within his parish and some of other parishes to marry without being 3 tymes asked and married some of them, and

some paid him 16<sup>s</sup> others 20<sup>s</sup> and some 10<sup>s</sup>. his licence was produced and read in this court: he used a small scale.

4. Touching the Adulteries charged on him, the promotor offered prooфе but for three of the 7. One was with one Brownes wife, another with a mayd gotten with childe in his house, and the third with one Judith Armstrong: none of these neither were proved directly, but that he offered and gave money in marriage with her that was with childe in his house to one Grey who married her, and that he indevored to marry her first of all to one Gunnis, his curat, and the fame was proved strongly especially about Browne's wife.

5. That he resigned the Vicaridge of Castor for money, vitz. 60*l.* this the promotor proved by one witnesse, to be in this manner Doctor Hooke made a lease of his vicaridge to a young Minister who gave him 50*l.* in name of a fine, and a moneth after Dr Hooke fell sicke and resigned and the Lessee got a psentation and had the living. Dr Hookes answere was alleaged against him that was in these wordes, that he saith that either he or his sonne had 50*l.* &c. But Dr. Hooke and his Councell alleaged the word 'either' was mistaken, and that it was the clarke's fault, it should have been neither he or his sonne had 50*l* &c. this defence the Court not easily believing put Dr Hooke to his oath whether he would there deny it and justify that he answered 'neither'? and he did affirme upon the oath he had taken, he did answere 'neither,' and that he had not the money nor his sonne.

6. That he had reported and openly averred that this Court had donne him wrong, proved &c. Doctor Hookes defence in breviat.  
1. That the prosecutor had given out he would charge him with 7 adulteryes and make him fly the country, that the promotor maligned him, and caused the churchwardens to examine one against Dr Hooke and gave the party 3<sup>s</sup>/2. That heerofore in the busines of Browne's wife 2 were ordered to aske Dr Hooke forgivenesse for raising that slander. 3. That none of the promotors witnesses are of the parish of Nettleton but one, to prove that of Greys wife:

4. He had noe conference with Greys wife when she was with childe before her marriage in Noble's house, as was alleged; George Noble *testis promotoris*. 5. That she was begotten with childe at Yorke and yet none of the witnesses of Yorke or Nettleton. This was for Judith Armstronge who married one Cocke, that William Cocke gott his wife with childe before he married: 6. That all the witnesses are poore people one not worth 5<sup>s</sup> his debtes payd, another not worth 20<sup>d</sup> his debtes payd. 7. That George Penny was a single witnesse about the simony. Another speakes of the report of a simony. 8. That it is not layd in any of the Articles that Dr Hooke preached there should be noe Ecclesiasticall government, but that his opinion was that it is not fitt an ecclesiasticall person should be a justice of peace nor Lord Keeper, nor Privy Councillor to his Ma<sup>tie</sup>.

Dr Eden for  
the Promoter.

DOCTOR EDEN divided the charge against Doctor Hooke into 6 partes, or 6 offences: 1. His explayming against Ecclesiasticall officers. 2. His preaching that Ecclesiasticall persons ought not to have any temporall power. 3. His making lawlesse churches and granting of licences. 4<sup>ly</sup> His adulteryes. 5<sup>ly</sup> His simony. 6<sup>ly</sup> His contempt of this court.

And he spake onely to the three last.

1. They prove the fame strongly and they give good reasons and are of the next townes: The defence saith there is nothing proved but the fame: let him answere that; the defence saith that by order of the court some asked him forgesenesse for raising this fame: this may be for if a fault be committed others must not speake of it but complayne, and besides there was new ground for the fame: But they were not of Nettleton, you say; yet they had diverse occasions there.

2<sup>ly</sup> For the simony. He confesseth it directly. That 60<sup>l</sup> or 50<sup>l</sup> or some other summe was given to him or his sonne as is articulate. He told Day it was for a fyne, but within a moneth he falleth sicke and then resigneth his vicaridge, and he lett it for a smale rent:

His defence is that George Peirce is a singulare witnesse: but one deposeth of the fame of it and he confesseth it himselfe, &c.

3<sup>ly</sup> For the contempt of this Court: That he hath been abused by the Court. I see not but this should light as heavy upon him as upon any other man, his Benefice is gonue, it is but to punish him as simonaicall, his defence is but tergiversation in all, &c.

For his abusing the Ecclesiasticall officers of the Court, calling them caterpillars and cancarwormes this reacheth not onely to Apare-  
tors but higher, it reacheth to my Lordes the Bishops: and this spoaken in such an open assembly before the judges and the whole country: I conceive that his awnere heerunto is defective and soe your Lorpps may proceed against him *pro confesso*, yet in his awnere he saith he used divers sharpe wordes against them, and though the witnesses be not *contestes*; but one saith, as he conceiveth, yet one of them being a Bachelor of Divinity deserveth to be credited.

2<sup>ly</sup> For that opinion of his that those of the clergy should not have temporall power: it is against Antiquity and the Kinges Authority, &c. and urged divers Doctors of the church heertofore that had great power: and drew an argument from a clergymans governing in his owne family, therefore in the commonwealth, &c. But it will be quarrelled that this is not articed, but that he said it was not fitt that an Ecclesiasticall person should be Lord Chancellor, Lord Keeper, or of the Privy Councell. Yet though the proffes hitt not the wordes of the article, he is to be censured for the wordes he did speake and some of the witnesses speake home to it.

3<sup>ly</sup> For his clandestine marriages and granting licences, for which he tooke extreame prices: They will say this is a peculiar: why had they not pleaded soe, but if it be soe; might he marry those of other parishes, and might he not have taken bondes that ther was consent of parents and noe precontract nor consanguinity, &c.? I hope therefore this man shal have noe more favor then another.

Doctor Hooke is not a man that hath forsaken his country nor hath forsaken his olde carriage in the University: He is conformable and of good conversation. It is his ill fortune to light

Dr Gwyn for the Defendant.

upon a cunninge and malicious informer who went to Yorke and examined witnesses when we<sup>a</sup> had noe motive. By these courses what might not be donne against men? For the first, the Article it selfe is of wordes concerninge the officers at Yorke not of this Court nor any other, and that he shoulde speake I know not what wordes, of which not a word proved in particulare but in generall: for the *pro confesso*, why he saith *non credit esse verum in aliquo*, and this is full, and besides he was questioned for that which is conteyned in these articles before the Bishop, who gave him a good admonition that might serve.

For his granting licences, he had authority from the Deane of Lincolne, and therefore thought he might lawfully doe it, and did not minister an oath, it is true; yet if he knewe them, it is an offence, but a very smale offence: But you aske wherfore he tooke soe much money? Why he both married and preached, and therefore tooke the more.

For the 7 or 8 adulteries, you insist but upon 3. You raise great mountaines of expectation, and at last you bring forth ridiculous thinges, instead of proving an adultery you insist upon a fame for Brownes wife. Fame helpeth proofe, but if it has noe ground it is but *vox populi vana*: and againe they are fames of 10 or 11 yeares agonne and soe pardoned.

For Grey's head,<sup>b</sup> heere is a fame and not a fact; it is said he offered her to Gunnis in marriage, and that he married her afterwardes to Grey, and therefore he is the father of the childe say they. Answer, it is not deposed by Gunnis who this woman was which Dr Hooke offered him, and if he did make such an offer it is but *indictum remotum, indictum propinquum* is when they are seen together in the same chamber, and yet this is not a concluding proofe; and soe for giving money with her to Grey, for a man may give money for his sonne or his brother, &c.

But for the fame against Doctor Hooke, some of the witnesses say they heard it and sawe suspicions 10 or 11 yeares since and others for 14 yeares since, 2 yeares before the childe borne, and

<sup>a</sup> ? he.

<sup>b</sup> ?

yet they slight our defence, they dwell at Lincolne and not at Nettleton.

I take that that followeth; I fynd this to be true that here is a Dr DUCKE for strange cause and a strange accusation, it hath beene proclaymed in the Defence. this court and at Yorke of 7 or 8 adulteries against Dr. Hooke; and now at the hearing they dare not say a worde of 4 of them, for those which they have endevoured to prove; Judith Armstrong was with childe in his house and after married to one Cocke, and this presently was Dr Hooke's: And your witnesse Grey that speakes *extra interrogatione* saith that Dr Hooke was the father of the childe that Joane Bird went withall when he married her: but then he is a beast to marry a woman with childe, knowing it, and soe not worthy to be a witnesse against a Doctor; and then they have brought two poore women to witnesse, their husbandes not worth 20<sup>d</sup> betweene them.

For the simony: I remember it was said, if he had any judgement it was fully proved: we leave our judgements at home when we come to speake for our clyentes: Your best reason is that it is confessed: Your Article is that Dr Hooke should have 50<sup>l</sup> for his vicaridge, and it is true the answere by a mistake is, that the summe of 50<sup>l</sup> or 60<sup>l</sup> was received either by him or his sonne. "Was given to either" is noe full answere, but the truth was he answered that the now incumbent gave to neither, and the Doctor doth now avowe upon his oath that it should be neither: a little letter can make noe great prooфе, it was taken by the youngest clarke and might be easily mistaken: and then if the worde had been either then aliter non credit had been idle. Then for the proofe of this simony, one saith that there was a deed and a bond sealed, but knoweth not for what, they would inferre it was for his Benefice. Another that it was reported that the next avoydance was to be bought and that there was a lease to be bought, another, that such a one tolde him, and this is all the proofe, and then they are a proofe of a fame say they, but yet there is but one witnesse for that: Then it is sayd against us that Doctor Hooke resigned *ergo* this is simony: it is

true he did resigne because he had two livinges, is this now simony? Againe if [it] fall upon the Doctor for simony, then by consequence also the young man must be declared simonaicall, and he is not called heere to answer. And for the contempt of the Court, it was true he hath been too lavish in wordes which cannot be excused onely extenuated, in that being a Doctor of Divinity he was something hardly used to have an attachment goe against him without Letters missive.

THE ARCH BP  
OF CANTER-  
BURY.  
DOCTOR  
BARKER.

My Lordes and the rest I desire your judgementes of this cause. For the first I hold it unfitt to punish Doctor Hooke, for that the wordes reached to them at Yorke onely; but for the second offence that Ecclesiastical persons ought to have noe temporall jurisdiction, this was a malicious opinion, and reacheth not onely to Doctors and others of the clergie but to your Lorpps, yet not to be punished heere for want of sufficient prooфе. 3. For the clandestine marriages, he intended none, and it restes whether he had authority to make licences. 4<sup>y</sup> For the adulteries, they have leaft the fact and are come to the fame: but fames before the yeare 1623 are not to be punished, yet a fame may be brought *ad probationem*, it is pardoned if it be brought *ad paenam*: therefore the fame as it standes is absolutely pardoned, and if it shall seeme fitt to some to require his purgation, I thinke it enough that their owne witnesses say he is of good conversation. 5<sup>y</sup> That which I stick at most is that of the simony, it is proved that he first let a lease and then resigned, if he let his lease with this intent then it is simony but if *ex post facto* onely, then not soe: I am in doubt for this, and therefore shall injoyne him his purgation 4<sup>a</sup> *manu laicorum*. 6<sup>y</sup> For the last his contempt of the Court he must submitt himselfe, and pay costes of the suit.

DOCTOR  
GOADE.

Though Doctor Hooke be said to be conformable to the Church yet I think he is not obedient to the government, it appeareth by his quarrelling with this laudable point of government, the jurisdiction seculare committed by the King to priestes: and his preaching this in the eares of those that are too ready to receive it, I thinke he

spake it out of plausibility, and not ignorance or corruption of judgement: if you preach for applause plausibly there is temporall punishment to be inflicted on you heere, and for scandal against the court there is another course: But you used a Scripture to prove your opinion, how rightly every one sees " Who made me a judge," &c. Our Saviour doeth not hereby deny the clergy authority temporall if they are called thereunto by the higher powers. Ecclesiasticall men are masters and fathers of families: and they are and must be subject to Kinges when they shall command.

For the simony I cannot cleare him, and soe much the more I condemne him for making the holy Communion Table the receptacle of his corruption; for upon it the money was payd, but it is said it was for the lease: I doubt his intention and therefore I would have him make his purgation, *septima manu* of Bachelors of Divinity, and I would have him make his purgation likewise for the adulteries, unlesse the fames be pardoned as well as the adulteries: and to pay charges of the suit.

For the scandalous wordes, if they were generall, then it was a Sr NA-  
great fault; but these wordes were particulairely spoaken against THANIEL BRENT.  
those at Yorke onely and they are not very well proved. 2<sup>ly</sup> His  
opinion that noe Ecclesiasticall person should exercise secular power,  
if this had been well proved I should have sentenced him for it  
especially: We have a title; that *clericci et monachi* must not be  
conversant in seculare matters, but this must be understande *sano modo*, that is that clergymen must not exercise husbandry or trades  
but it doeth not exclude them from secular power, for the Pope  
him selfe hath a great deale of temporall power and therfore this  
lawe is not against temporall jurisdiction in the clergie. 3<sup>ly</sup> For  
his clandestine marriages, I hold them fully proved; an offence never  
sufficiently to be condemned that a mans childe shall be stollen and  
taken from him without his consent. 4<sup>ly</sup> The adulteries are but a  
fame and since they were long agoe there hath been pardons to cut  
them off, there is a fame which none knowe whence it is, this is not to  
be regarded but this is a fame upon suspicions raised upon just

groundes. 5<sup>ly</sup> For the simony I am of opinion with my colleague that he doeth partly confesse it, and hath carried himselfe very negligently in it in not defending himselfe, soe that it is very suspicious. 6<sup>ly</sup> For the contempt of the Court it is fully proved, but it was in hast: Therfore I thinke it fitt for the marriages that he receive admonition from this Court, and soe for the contempt, and for the simony to purge himselfe by 4 Bachelors of Divinity, and to pay the expences of the suit.

DOCTOR  
LAMBE.

For the fames there be divers opinions, men are divided, some thinke them pardoned some thinke not, but not to determine that question, it is to be considered what is now fitt to be donne upon these : seeing the fames were soe long agonie, it is favourably to be taken, and there is noe neede of purgation for these.

For the simony it is very suspicious, his confession cannot be denied, either he or his sonne had 50<sup>l</sup> as is articulate. It is to be doubted whether this bargaine or lease were simonaically intended, and therefore it is fitt he purge himselfe with 4 ministers, and for the contempt of the court it is not to be borne, for this he is to have the censure of admonition, and to pay cases of suit to the promotor.

S<sup>r</sup> CHARLES  
CESAR.

Sir Charles Cesar shortly gave his censure for his purgation for his simony and payment of costes.

S<sup>r</sup> HENRY  
MARTIN.

It hath been questioned whether the fame be pardoned: a pardon is a pardon of all offences; but what is excepted is not pardoned : all pardons since the 14 of Elizabeth have excepted adultery and fornication: and fame is noe crime, their mouthes are pardoned: but however this is not pardoned as a proove; proofes are arbitiable as they shall move the minde, but with submission to the judgement of those that are better learned I think it a strange speech to talke of fame pardoning.

You say some things are out of the Articles: why the Articles are to be generall and noe leading articles, and therefore you are not to say, such a thing is extra articed.

You say againe there be but 3 adulteries stood on and 7 or 8 complayned of; why you have the like in the Starre Chamber and other courtes, *quatenus* as they are proved, &c. yet it were to be wished that men would article noe more then they can see prooфе for.

What is plaine I will sentence him for, his contempt is manifest, and his granting of licences is proved, he thinkes he had authority and proves it not, I thinke it growes from pride in him, and for this he is to be suspended 3 years.

For his speaking against ecclesiasticall men their having of temporall authority; I am not sent hither to dispute it; goe tell the King of it or the Lord Keeper that they may not appoint them; but the learned Archbishop Whitgift, Castus,<sup>a</sup> and Sutcliffe have argued this point long since: and you must teach them this at the Assizes, that in tyme they may come to this to take their warrantes away and box them: Sir, this is sedition and your answere is that you hould it not convenient. That which ever hath been professed and practised heere you hould it not convenient: Heere is such preaching every day! but Sir, I hould you a strange man: but you said it onely against the Archdeacon of York, what then, must this be talked of in your sermon at the Assizes?

You that are advocates you speake of your judgementes: you forgett your selves, we are judges. Heere is a Lease of the Vicaridge made for 3 yeares, and within a moneth it is his fortune to fall sicke and then he resigneth. Would you had read the title *De infirmis resignantibus* and the lawes against resignation! Well, this is a plaine grosse tricke, I would not have you thus to teach folkes to commit simony.

For the Adulteries which is said to be 3 of 6, why one is too many. This I affirme when one is gotten with childe in my house, and I after give 10<sup>l</sup> to marry her, this is my childe, I should hould such an one guilty of adultery, and soe shall thinke him. Therfore I thinke fitt he make his purgation for this and the simony, and pay costes of suit.

<sup>a</sup> Probably miswritten for some other name.

The BP. OF  
ROCHESTER.

The Apostle in 1 Cor: 6, affirmeth that the saintes shall judge the world, and fyndeth fault with the Corinthians for going to lawe under the infidells, and not to be ordered by the Saints, now some of these were of the Ministry. Though you are said to be conformable I thinke you have an hollow heart, for your simony, it is a teaching simony. Did not you take the money for the lease? When you resigned, did you restore it him againe? Did you cozen him of it? But for the matter of adultery my heart cannot condemne him onely this, you have shewn a great deal of ignorance in defence and your adversary a great deale of cunninge in accusinge; now because the state of the Church is like the skinne which coveres the apple of the eye and that I suspect you for your intention in making the lease, I concurre in my sentence with Sir John Lambe.

The BP. OF  
NORWICH.

This man takes upon him to prove much out of a place of Scripture; That our Saviour Christ remaininge as a private man refused to divide the inheritance, *ergo* noe layman must use authority over others, this is absurde: and soe likewise it is to conclude from this that ecclesiastical men ought not to exercise the power that is committed to them by the supreme Magistrate.

For the Pope's authority and jurisdiction temporall and that which their clergymen have, they take it by vertue of the Keyes; but this authority is derived from the King, it is not contrary to the lawe of nature nor the lawe of God, and hath been used 4000 yeares without question, in the Leviticall lawe it was never denied, and since Christ, St Austin was one that had power where he lived, and St Cirell of Alexandria, a man famous in the Greeke church, had great power: and if there be not mentioned some ecclesiasticall men among the officers of King Davides house my memory fayleth me, I referre my selfe to that place: Therfore Doctor Hooke as it seemeth to me reasoneth like a dotterell, he defameth officers and seeketh to invert the Kinges authority. For the simony it is very crafty and very suspiciois, and for the adulteryes I cannot absolve him, for men of his coate should not onely *carere criminis sed suspitione criminis*. And for the contempt of the court it is too

plaine, therefore I goe a middling way, and would have him purge himself; and agree in censure with Doctor Goade.

I have knownen this man a longe while and am sory to hear such <sup>The BISHOP</sup> thinges of him; but we are to be very carefull of sentences upon <sup>OF LICH-</sup> ecclesiasticall persons: it is knownen what machinations the *profanum vulgus* have. *Multa nocent*, &c. to speake of some offences were to doe hurt: but my minde gives me he hath lived *nec caute*, *nec caste*; it seemeth by the proofes that being suspected yet he was not carefull to avoid it. For his scandalizing the officers ecclesiasticall, it is not soe well alleaged nor proved but yet his opinion is confessed he thinketh it not convenient, &c. He might very well have forfeited his Doctorship by it. We have a great many testimonies almost from the primitive tymes of Ecclesiasticall persons bearing authority temporall: *onnis anima* is subject to those that are in supreme authority and the higher powers. To argue this were not to confirme but weaken it, the subject hath been soe well handled by others, and generally practised: if you had applied this to Papistes you had donne well, but it showes your ignorance in not discerning the difference, seeing we have our power from the King. For our Saviours speech, if you take it literally, "Who made me a judge," He was not a temporall Magistrate, "Who made me a judge that am a spiritual governor," for his governement was spiritual. But in as much as Doctor Hooke hath rayled against justice, it makes his offence the greater. I agree therfore that he make his purgation for the simony and alsoe for the adultery, and receive the censure of admonition and pay costes of suit.

I remember when this Doctor Hooke was a chaplaine in ordinary <sup>The B.P. OF</sup> to the King my master of famous memory that is with God. But <sup>WINCHESTER.</sup> the King discarded him: for his offence 1. In that he said he leaft the place of Archdeacon of Yorke to ridde himselfe of those caterpillers. 2<sup>y</sup> For preaching that noe ecclesiasticall men ought to have temporall power, these strike at the whole ecclesiasticall governement: For the second I thinke it was spoaken *ad faciendum populum*, and it is an assertion fitt for an Anabaptist: Doctor Hooke

knowes that till the priesthood was established in Moses' tyme, the cheife of every tribe and house were princes and priestes, and that afterwardes priestes were judges in temporall thinges. And we knowe that in the Christian worlde there have been much fruit of their labours being in temporall authority.

For his licences of marriages though he had authority from the Deane of Lincolne, yet he hath exceeded his authority in marrying some of other places out of his parish and not dwelling in the place where he had that power.

For the fames, all things belonging to ecclesiasticall jurisdiction are pardoned by coronation pardons.

For the simony, the making of the lease doeth not excuse it, but maketh it greater: and for the contempt of the Court, for these I shall sentence him and for the other, first for his speech of caterpillers and his preaching that there should be noe temporall authority used by ecclesiasticall men, to make his recognition; for his making licences, suspended, for the simony to be purged 7<sup>a</sup> *Manu.* and to pay costes &c.

The BISHOP,  
OF LONDON.

I thinke that for the first wordes against the ecclesiastical officers at Yorke, they are not so well proved, but for the second it is without all manner of defence: I am sory that he is so absurde to preach such thinges at Assizes, that it is not convenient that Ecclesiasticall men should exercise temporall power especially seeinge we have it from the King, but I pitch upon the constitution of God himselfe: The constitution of God that the high priest should be judge and soe Eli was judge and judged Israel. For the clandestine marriages I am perswaded he did it by his archiaconall power, but yet it is very dangerous, and he hath exceeded his power in marrying some that were not of his peculiare. As for the fames I am of opinion that the coronation pardon doeth reach them: but for the simony, I holde it a way to teach and shew men to commit simony by making of leases, and I thinke it soe much the rather to be punished in him for making the Communion Table a place of

changeing of money, I would have him therefore for this suspicion to make his purgation 7<sup>a</sup> *Manu:* and to pay costes.

I give my sentence against this man for his making of lawlesse The ARCHBP.  
churches to be suspended three yeares: for his saying against the OF CANTER-  
officers that they are caterpillers I let that passe: for his simony I BURY.  
vehemently suspect him, and therfore to purge himselfe 7<sup>a</sup> *manu:*  
for the matters of adultery it seemeth to me a wondrous thing that  
a man of his yeares should soe carry himselfe to be subiect to  
suspition: these may be pardoned and I doe not fynd any neare  
*actum propinquum*, and therfore I thinke him not guilty of these  
obliquities. Not to meddle with his wordes against the ecclesiasticall  
officers: but for the other thing that noe clergie man may be so  
much as a Justice of Peace, this is fantasticall; and makes such a  
breach in the Church that he cannot easily make satisfacion: I  
mention not the high priest: there were of the Sanhedry them  
of as great power as any with us: but our Saviour was indeed a  
spirituall governor: St. Paul hath this: "Is there not a wise man  
among you that may end these controversies?" soe we may say to  
you "Is there not a wise man among the cleric?" Kinges and  
Queenes are nurceing Fathers and nurceing Mothers, and they  
shewe it nothing more then in provideing for governement by such  
among others. St. Austin a great Clarke and St. Ambrose and  
others had great power in temporall things: The Turkes, the  
Venetians<sup>a</sup> and Pagans are very willing that their preistes should  
have rule and governement among them; and if it be thus amongst  
the heathen, it were a shame for Christians to be more unthankfull  
to their spiritual fathers: Againe this man is a master of a family  
and his guide to the manners of his children and servantes if he  
have any: These things are soe grosse that I shall give my  
sentence with any that gives the highest.

Well, Sir, I must admonish you for your contempt, doe not carry  
yourselfe soe desperately; if you can preach well, preach well, and  
pray well too, for this is the fault of many now adayes: you are to  
pay the charges of the suit, and to be committed.

<sup>a</sup> ? Phœnicians.

## A Cause against Thomas Welles, Vicar of Tarlinge.

An intimation was sent from this Court to be published in the parish church of Tarling that Mr Welles should appeare heere this day upon pain of being deprived: An oath was made that it was soe published, and the intimation was likewise read to the Court, reciting that William Bishop of London had heeretofore convented him and given him thereupon a canonickall admonition and tyme for halfe a yeare to consider whether he would subscribe, and that afterwardes the said Thomas Welles was not satisfied, and being put to it whether he would subscribe he refused, that therupon he was excommunicate and afterwardes was scited to appeare in the Consistory at Paules, and he came not and that therfore the Bishop of London was forced to complaine to this Court, and the Court sent this intimation, &c. which beeing heere read and testifyed upon oath to be published as was required, and the said Mr Welles not appearing, the Kinges Advocate desired that for this contumacy he might be deprived, &c. Which by the unanimous consent and sentence of the Court was donne: And a sentence ready drawen was then read to that purpose, *in dei nomine*, &c.

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In the Court of High Commission, 26 January, 1631. Anno 7<sup>o</sup> Caroli Regis.

|        |  |                     |                              |
|--------|--|---------------------|------------------------------|
| Before | George, Archbishop of Canterbury.                                | Commis-<br>sioners. | Harl. MSS.<br>4130, fol. 89. |
|        | William, Bishop of London.                                       |                     |                              |
|        | Richard, Bishop of Winton <sup>s</sup> .                         |                     |                              |
|        | Francis, Bishop of Norwich.                                      |                     |                              |
|        | Theophilus, Bishop of St. David's.                               |                     |                              |
|        | John, Bishop of Rochester.                                       |                     |                              |
|        | S <sup>r</sup> Henry Martin, K <sup>t</sup> , Doctor of Lawe.    |                     |                              |
|        | S <sup>r</sup> Charles Cesar, K <sup>t</sup> , Doctor of Lawe.   |                     |                              |
|        | S <sup>r</sup> John Lambe, K <sup>t</sup> , Doctor of Lawe.      |                     |                              |
|        | S <sup>r</sup> Nathanael Brent, K <sup>t</sup> , Doctor of Lawe. |                     |                              |

The BISHOP of BRISTOL recommended a cause to the Court One of Bristol against one of that City being an Officer there who brings the Maior to the Cathedrall Church, and then goes out for the feare of superstition. The defendant required by his Advocate that there might be a sufficient prosecutor against whome to have costes if he were not found a delinquent: and it was granted.

The Court had committed M<sup>r</sup> James Godwin of Welles a gentle- James Godwin. man of the Temple upon a contempt for resisting the messenger and the officers of Welles in search for a Seminary Priest in his house whereof oath was made the last terme and at a meeting of this Court at a day after the terme M<sup>r</sup> Godwin was committed to New Prison. This day M<sup>r</sup> Godwin came to offer his defence to the Court by Doctor Eden his Advocate, and alleaged that the oath which the pursuivant had made was untrue, and in conclusion M<sup>r</sup> Baker the Recorder of Welles was brought in to speake for M<sup>r</sup> Godwin; who testifeyd that Mr Godwin upon the search came

unto him being a Justice of Peace in that city and desired him to examine some witnesses, vизt. the 2 verderers about the said Mr Godwin's carriage in the said search; that he refused soe to doe, answering he would not meddle to examine any witness for causes in this Court and wished Mr Godwin to repaire to the Lord Bishop of Welles who was one of the Judges of this Court: That Mr Godwin therfore desired him to heare what the two officers would voluntarily say of his demeanour in this matter, which he did, and that they related the whole proceedinges to him, and tould him that Mr Godwin did willingly and redily admitt them into his house; offered noe violence either to the Messenger or the warrant; did not drawe his dagger &c. contradicting the messenger's oath: That he had knownen Mr Godwin a longe while, that it is true there had been some question made against some of his friendes who were suspected; but for this gentleman he never knew him but a very sober and well governed man, and conformable, and that he was a student of the Inner Temple, and Mr Doctor Micklethwayt could heere testify his conformity.

The Messenger offered to produce a witnesse to justify his affidavit, and that Mr Godwin was 3 yeare at Doway, and there was acquainted with a Seminary Priest who is now in England, lately come over and thought to be at this Mr Godwin's house, whereupon this search was made, &c. Heerupon the Court referred the matter to the next Court, when Mr Godwin was to bring a certificate from Doctor Micklethwayt.

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Elizabeth Holland a woman of ill reporte and her husband were Holland. called upon an intimation of 100<sup>l</sup> but they did not appeare, therfore another intimation of 200<sup>l</sup>, &c.

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It was moved by Dr Gwyn for Dr Hooke <sup>a</sup> that he might have a Doctor Hooke. copy of the sentence drawen up against him: the Registrar answered he might have had it if he would have asked and payd for it, and Dr Hooke confessed he did not aske a copy: Dr Gwyn further moved that he did not love to make motions against the Registrars but of necessity now he must, that he had drawen the sentence as if their Lo<sup>ps</sup>s had adjudged him to make his purgation for the fame as well as for the simony, which was not soe. SIR HENRY MARTIN was very angry with Dr Gwyn for some passages in this motion and threatened to have him suspended from practise in this Court, and the Court seemed in to inclyne that the Registrar had taken the sentence right, and founde much fault with Dr Hooke for not bringing his compurgators. Dr DUCKE with all submission shewed that they conceived the purgation was to be made onely for the simony, and it was desired he might have day till next terme to make his purgation which was granted and the day fixed, the second sitting of next terme: SIR HENRY MARTIN made complaynt to the Court of a scandalous upbraiding and unmannerly letter sent by Dr Hooke to him and had under written his name, Henry Hooke. You should (said S<sup>r</sup> HENRY MARTIN) have sayd, your better, your superior, your comptroller Harry Hooke! The letter was not read. But THE BISHOP OF LONDON reproved Dr Hooke for the letter as too sawcy, &c. Dr HOOKE answered he wrote it to make good his promise to give satisfaction to Sir Henry Martin why he gave 10<sup>l</sup> in marriage with Joane Bird to Grey, &c.; it seemed by the Bishop of London's wordes that Dr Hooke had in that letter

<sup>a</sup> See p. 259.

given this reason for giving that 10<sup>l</sup>, because his sonne was accused for the father of the childe either by the said woman or otherwise suspected: for thus spake THE BISHOP OF LONDON: Dr Hooke, you now goe about to putt off this upon your sonne, as that to kepe him from the shame of his sinne you did it; but for my parte I thinke none will as yet till your purgation think soe, but rather that yourselfe are guilty and seeke to lay it upon your sonne, seeing you have no other shifte, &c.

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Mr Welles. There was some occasion of speech concerning Mr Welles,<sup>a</sup> and THE Bp. OF LONDON affirmed that he went away to Amsterdam to choose for one offered to settle upon his children 100<sup>l</sup> a yeare land by bond if he would not subscribe &c.

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In the High Commission. 9<sup>o</sup> Februarij, 1631. Anno Regis Caroli Septimo.

|        |  |                 |
|--------|--|-----------------|
| Before | George, Archbishop of Canterbury.                              | Commis-sioners. |
|        | Edward, Earle of Dorset.                                       |                 |
|        | Willm, Bp. of London.  |                 |
|        | Ricard, Bp. of Winton <sup>s</sup> .                           |                 |
|        | Sir Dudley Digges, Knight.                                     |                 |
|        | S <sup>r</sup> Henry Martin, K <sup>t</sup> , Doctor of Lawe.  |                 |
|        | S <sup>r</sup> Charles Cesar, K <sup>t</sup> , Doctor of Lawe. |                 |
|        | S <sup>r</sup> John Lambe, K <sup>t</sup> , Dr of Lawe.        |                 |
|        | S <sup>r</sup> Nathaniel Brent, K <sup>t</sup> , Dr of Lawe.   |                 |
|        | [Hugh] Barker, Esq <sup>re</sup> , Dr of Lawe.                 |                 |
|        | Ayloffe, Esq <sup>re</sup> , D <sup>r</sup> of Lawe.           |                 |

<sup>a</sup> See p. 260.

Betweene Sr Richard Greenfeild and his lady.<sup>a</sup>

It appeared to the Court that the lady, who was the widdow of Sr Charles Howard, brought to Sr Richard Greenfeild 700<sup>l</sup> land *per annum*, and a personall estate to 1000<sup>l</sup>. That she being a vertuous and a chaste lady, he called her whore often tymes, and before diverse justices of peace called her whore. That he gave directions to one of his servantes to burne horse-haire, wooll, feathers, and paringes of horse-hoofes, and to cause the smoke to goe into the ladyes chamber through an hole made in the plaisterring out of the kitchin: that he brake up her chamber doore and came into her chamber at night with a sword drawen: that for the key of his closett which she had taken away and denyed to give him, he tooke holde of her petty coate and tore it, and threw her on the ground, being with childe, and as one witnesse deposed made her eye blacke and blewe. That the lady being with childe, he did threaten her she should not have her owne midwife, but one of his owne provideing. That he confined her to a corner of the house. That he excluded her from governing the house and affaires within dore, and one M<sup>r</sup>is K<sup>atherine</sup> Abbott, Sr Richardes kinswoman, ordered and ruled all thinges, &c. That he being drawen by the Justices of Peace to allowe her 40<sup>s</sup> a weeke he refused after a while to pay it unlesse she would make an aquittance. That she feareth her life and dareth not cohabite with him, and was forced to require the peace of him. That he protesteth he would never lye with her againe, &c. and that Sir Richard's witnesses, some of them, are subject to exception, being servantes, and some of ill reporte, and others poore and indebted, &c.

On the other side it appeared that Sir Richard did endevor to make his defence thus. That they lived quietly together by the space of two yecares and till they came to this Court. That her land is but 600<sup>l</sup> a yeare, and had payd debtes which she owed, and

<sup>a</sup> See *Clarendon*, viii. 135

laid out in building 1000<sup>l</sup> and more. That she conveyed her estate away to friendes trusted 2 or 3 dayes before the marriage, to debarre him from meddling therewith. That she removed her bedd and lefft his bedd first, and hath often refused to come to lye with him. That she hath often carryed herselfe fowardly both in wordes and deedes, and sung unseemly songes to his face to provoke him, and bid him goe to such a woman and such a woman, and sometymes called him poore rogue and pretty fellow, and said he was not worth 10 groates when she married him, that she would make him creepe to her, and that she had good friendes in London would bearc her out in it. That she swore the peace against him without cause, and then asked him "Art thou not a pretty fellow to be bound to the good behavior?" That she sayd he was an ugly fellow, and when he was once gonне from home she said the Devill and sixpence goe with him, and soe he shall lacke neither money nor company. That she voluntarily refused to have servantes to goe with her abroad. That she said such a one was an honester man than her husband and loved Cuttofer<sup>a</sup> better then him. That he was content she should have what midwife she would, and soe she had. That there were holes made in the kitchin wall by the lady or her daughter, that he gave direction that they should be stopped up that she might not harken what the servantes said in the kitchen. That she had 10 roumes, and had whatsoeuer in the house shée would desire. That she locked him into his closett and tooke away the key; and it is true he endevored to take away the key from her and hurt his thumb and rent her pocket. That he earnestly desired to dwell with her, &c.

It was argued by Dr REEVES that alimony may be granted unto the lady in this case, and that the Court will allowe her to live from him. That as *in causa heresis non decet esse patientem*, soe noe Lady can indure her selfe to be soe bewhored; that it was a Pharonicall thing to deny her her choice of a midwife. That the office of a wife was *domum ducere*, and this was taken from her.

<sup>a</sup> ? Christopher.

DOCTOR DUCKE for the Lady shewed that this cause consisteth of two partes. 1. Whether there be cause that the Lady Greenfeild may live from her husband and is not to be compelled to live with him? 2. What proportion of maintenance shall be allowed her for Alimony? For the first he much pressed the ladies proofes, and shewed the weaknesse of Sir Richardes defence. For the second, that the civil lawe and lawe of all countries but this (indeed the lawe of England is an husbandes law) that the woman's estate is still her owne after marriage, and the husband hath but the proffittes: that after death or separation it commeth to her againe, and therfore the equity of the civil lawe may be observed; that if he be the cause of the breach she is to have her whole estate or the greatest part of it. A THIRD DOCTOR for the Lady shewed, that an husband should be *animus, pater, et caput uxorius*, but he made her a servant, and instead of *author salutis* he is become *insidiator viæ*: and shewed that if after adultery the wife knowing herselfe guiltie departes, and the husband desire to have his wife againe he shall, upon good caution to use her well, but when there is hatred because of this in the husbandes heart, then she is utterly to be removed, and endevoured to shewe his malice by denying to pay the weeklye 40<sup>s</sup>, &c.

Dr Gwyne for S<sup>r</sup> Richard first offered and prayed that Sir Richard might upon good caution be admitted to have his wife againe, and that if this might be accepted he was to put up his pipes and say noe more: and afterwardes argued that if this lady hath been an irrespective and imperious wife, and hath used such reproachfull speeches as never any did that sought alimony in this court, then this place not to be a place of refuge for such a domineering woman, and urged S<sup>r</sup> Richardes proofes and defence, &c. ANOTHER DOCTOR shewed that for calling his wife whore it worketh not a separation, and shewed that if a woman be conscious of adultery and thereupon depart and he sue her in *causa spoliationis* she shall come home, but good caution to use her well, and desired the calamity of this gentleman might be looked upon with

pitty, that there was a cloude hung over his heade indeed, but yet it was hoped it may distill away in droppes of mercy. A THIRD DOCTOR for Sir Richard shewed about the estate which the lady brought that it is worth but 600<sup>l</sup> a year, &c. that there is an heavier fine upon him then to pay alimony, &c.

**The Sentence.** The Court was of opinion that there was such a breach made that it was not like they would forgett it easily, and not fitt to compell her to live with him, and therfore to have the one halfe of her meanes being 700<sup>l</sup> *per annum* that is 350<sup>l</sup> *per annum*.

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Sparkes the  
Bookseller.

A cause promoted against Sparkes for printing the Psalms as if printed at Cambridge and sent them to Oxford and Cambridge to be sould and putting blasphemy in them, and printing them with a scurvy letter in odium of the University; whereas it was ordered before his Ma<sup>te</sup> at the Councill Table that the University should have the printing of the Bible with the psalmes.

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James  
Godwin.

D<sup>r</sup> MICKLETHWAYT<sup>a</sup> certifyed that M<sup>r</sup> James Godwin received the Sacrament the last Sunday in Michaelmas Terme last at the Temple Church: But the Officer of the Court caused another affidavit to be made to confirme his oath and soe there were two contestes against him. Heerupon the Court ordered him to pay 40<sup>s</sup> to the Officers: which he was content to doe.

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Holland.

Elizabeth Holland<sup>b</sup> was called but appeared not, it was said she was gonне away from her house against shrovetide: and that the tenant had petitioned the B. of Winchester that the house might be garded for feare of pulling downe.

<sup>a</sup> See p. 262.

<sup>b</sup> See p. 263.

Richard Lane<sup>a</sup> was sent to Bridewell againe for falling into Lane.  
speeches as badd as his former.

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It was ordered that the cause against M<sup>r</sup> Geering<sup>b</sup> should be pre- M<sup>r</sup> Geering.  
sented by the Kinges Advocate because he was not satisfyed about  
the lawfulnesses of some of the ceremonies.

He helde himselfe not bounde to answere, this was held noe One answered  
answere and therfore ordered to answere by such a day or be <sup>not</sup> fully.  
declared *pro confesso*.

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One Appletree was brought in to answere for saying that the Appletree.  
common Catechisme of the Church of England was against the  
word of God and he tooke his oath.

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M<sup>r</sup> Hartford<sup>c</sup> last court desired to have his sureties bond for his Anthony  
appearance out of Court, and it was ordered that upon good caution Hertford.  
he should appeare and be forthcomming from tyme to tyme he  
might, it was now showed he had put in but his owne bond and  
therfore the order was that both should be kept till he came.

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M<sup>r</sup> Fish, one of the Proctors, was suspended from his practise for Fish the  
loosing the libell and putting offe the prosecution of a cause he had Proctor.  
in hand against one for inconformity, for that it was informed he  
had 20<sup>l</sup> for every terme he put it offe of the contrary party.

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<sup>a</sup> See p. 194.

<sup>b</sup> See p. 244.

<sup>c</sup> See p. 241.

[In the Court of High Commission, 21 Junii, 1632].

Kings Advocate against Henry Mudford, Henry Ferman, and Francis Bridges.

That they hould manie false opinions and errors.

1. That to the believer all things are pure, and that David when he committed adultery pleased God as well as when he danced before the Arke.
2. That justifyed persons cannott displease God.
3. That the morall law doth not binde the conscience nor accuse the believer.
4. That those that lived before Christ, and looked for his comming and did believe it were actuallie justifyed.
5. That beleivers are justified before they have faith actuallie.

DOCTOR REEVES saith, They have made noe defence, therefore all is true, they hould all these opinions. Mudford, Ferman, and Bridges said that all was not true, they doe not hould all those as they are articled. DOCTOR EDEN for the defence saith that these are plaine men; they hould some of these, but not all; they say they are justifyed actually by faith, but that before faith they are loved of God, and that whatsoever is wantinge in the beleiver is supplied by Christ Jesus, Whataeover the first Adam lost, Christ maketh that good againe to every believer &c. [THE BISHOP OF] LONDON: They said these wordes, did they not? was it not given forth in writinge by them? There is sufficient testimonie; Mr. Samuel Ward and others. What say you to that your opinion, that we are justifyed and made the sonnes of God by the worke of Christ before anie faith be in us to apply the merritts of Christ to ourselves? Answere by the three Defendants: That as Adam made all men corrupt, soe Christ maketh the elect righteous and acceptable: and you agree with us in baptisme. Infants are regenerate, therefore they are justifyed, and that is by faith. There is grace though not seene. [THE BISHOP OF] LONDON and [THE ARCHBISHOP OF] CANTERBURY. This in baptisme is not an actuall but an habituall faith.

What say you to this? That a beleiver cannot grieve God's spirit. Answere by THE THREE MEN: We doe not believe that a believer cannott greive God's spirit, but yet they say that God's love was not the lesse to David for his sinnes of adultery and murther; for God's love is unchangeable. [THE ARCHBISHOP OF] CANTERBURY: Let these men lie by the heeles. [THE BISHOP OF] LONDON. Let them be sent to 3 other prisons, and not to the new prison. And let M<sup>r</sup> Prinne be articled against for the same; we must not sitt heere to punish poore snakes, and lett him goe scotfree. THE 3 MEN. We desire that some bodie may conferre with us, that we may be informed if we be in errour. THE ARCHBISHOP OF CANTERBURY. The country complayneth, and the Commissary complayneth, you pervert the word of God.

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In the Court of High Commission, 19 Aprilis, 1632.

The Kings Advocate against Joseph Harrison, Clarke, Vicar of Sustorke.

He was accused that he being a Minister and entred into holy Articles. orders, was a common frequenter of alehouses, and a companie- keeper with beggars, tinckers, bedlam men, and all sorts of people. 2. He hath bin often soe distempered with drinke that he could not reade divine service, but faltered and fumbled with his tongue, and once could not read, "The peace of God." 3. That he is a common swearer. 4. That he burnt an excommunication under seale which was sent him. 5. That he christened manie bastard children privatelie. 6. He married one being his Maties ward without licence. 7. He was admonished by the Bishop of Coventry and

Lichfeild<sup>a</sup> to beare himselfe more discreetly but since he hath married divers without banes or licence under trees. 8. After he had married some clandestinelie he gave them certificats sometimes in his owne name, sometimes in a false name, and sometimes setting other ministers names. 9. That there was a common report in such yeares viz. 5 or 6 yeares together that he was a common frequenter of tavernes and alehouses, and a common maker of clandestine marriages. 10. And that he spake manie opprobrious words against the Bishop of Litchfeld and his Chauncellor. 11. That he was a professor of the Art Magick and in particuler, charmeing of piggs. All these, saving the last, were well proved, but that was not believed to be in him.

**Defence.** Harrison being put to his defence made none, onely tended a certificate which being after publication in the cause, was rejected and not read, and it was said in his behalfe, he had a wife and 11 or 12 children.

**King's Advocate.** It was shewed by the King's Advocate that he was incorrigible in appealing from his Bishop and doing worse after admonition, and that, as to his wife and children, as they are to fare the better for the good qualityes of the husband, soe they must be content to fare the worse for his bad qualities: And the Court proceeded to sentence.

**Sentence.** It was said by THE BISHOP OF ROCHESTER that this was a bad cause, that he never heard of the like: that he is a most odious man; never to be restored, and men are to know by his punishment, that he is not sentenced for not wearing the surplice, but for drunckenes, profaning of marriages, and making men to live in perpetuall adultery: That he is a tincker, a beggar, a drunkard, a Bedlam: and it was said by THE BISHOP OF LONDON, that it was now time to punish such a man as this, seing they have sent us (saith he) this printed libell from Amsterdam, wherein they accuse us for conniveing with such men (and he read the wordes, viz.)

\* Bishop Morton.

"Although he be the vilest wretch that lives under the sunne, yet if he will weare surplice and crosse the child with thumb, he shalbe countenanced by you much better then the best, if this prove not to be too true, then let me have noe trust." Then saith HARRISON, My Lord, this is contrary to that you promised me. Saith THE BISHOP OF LONDON, the Tincker would mend it. To conclude, his sentence was to be deprived, degraded, imprisoned, excommunicate, fyned 500*l* and to pay costs of suit to the Promoter and to remaine in prison till he brought in his orders. The Sentence was presently read by THE ARCHBISHOP OF CANTERBURIE. *In Dei nomine Amen, &c. and Deum prae oculis preponentes, &c.* at which words I marked some of the Bishops to looke upwarde and put of their hatts devoutlie.

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The Petition of Fish the Proctor, Humble sheweth that whereas Fish the he was suspended from his Office and practise for some supposed Proctor. misdemeanor in the cause against S<sup>r</sup> Gyles Allington and Michaell Dalton, Esq.<sup>a</sup> and others, as if he should have delayed the same cause, and especiallie because some of the wrytings were mislaid and wanting that perteyned to the cause, he saith that if it were the worst way which he tooke, yet it was an errour of his judgment onlie, not of his will, and though it were the longer, yet it was as he conceived the surer course, and showed the writings were now found, and that the cause was alreadie sentenced; He prayed seeing he had suffered shame and losse enough, that he might be now restored to his place; and it was graunted.

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The King's Advocate <sup>b</sup> produced a draught of a confession to be M<sup>r</sup> Viccars. tredent unto M<sup>r</sup> Vicars, as I conceive, That whereas I John

<sup>a</sup> Allington was sentenced for marrying his niece, the daughter of Michael Dalton and his wife, who was Allington's half sister.

<sup>b</sup> See p. 238.

Viccars have beeene convented before his Ma<sup>ties</sup> Commissioners in causes eccl[es]i[astic]all for these false and wicked opinions and for divers other offences, &c. I confess me self to be by prooфе of witnesses and mine owne confession justly convicted of them, &c. DOCTOR DUCK, Dr GWINNE moved that noe such words might be put into the confession, as might drive him upon perjurie, havinge denied them upon his oath for the most part. God forbid, saith the BISHOP OF LONDON, leave out therefore that which implyeth to be absolutelie guiltie, and say that he was justly convicted, for there was testimonie enough to ground the sentence.

Some have said that Mr Viccars did petition and make his submission, and I heard one of the under servants of the Court say, Mr Viccars recanted all, but I did not understand that Mr Viccars did peticion or submitt as they have said; and he himselfe as I have heard credibly did deny that he ever peticioned in the cause, which confirmeth me in my first opinion of the carriage of this matter.

Fees by  
Conventiclers.

Keepers of Conventicles would not pay their fees to be discharged after their answere, it was said, therefore they have not made their answere, and they were committed for not answering, although they had, but had not paied their fees.

Blagrave of  
Newgate  
Markett.

Richard Blagrave being ymprisoned for having taken in his house many new Bibles of the Geneva print with the notes, and among divers others bookeſ these two libells come over from Amsterdam, and he was accused to be one that had a stocke goeing in the trade. He was brought to the Court and peticioned shewing that those bookeſ were all leaſt at his house by one John Evans a Factor, and ſould him for an ould debt, and he denyeth that he hath any stocke goinge in the trade, or that he ſent for these bookeſ over, and prayeth to be released. He is committed till he bring forth Evans.

The petition of Mrs. Pretty<sup>a</sup> in the behalf of her husband, that Pretty he was sorry for his opinions and would preach the contrary, and being lately sick, he was especiallie sorrowfull for this; and therefore prayed he might be restored to the ministery: The Court was inclinable to favour him, and did grant that, if some poore place might be gotten for him, he should there exercise his ministerie; they would trye him.

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The petition of Joan Lane<sup>b</sup> that her husband might be released, Lane. but it was said that he was of the same opinion and his wife was the worse of the two, and the BISHOP produced the note of the Church booke of their marriage to be 23 Feb. ult., and accused her to be great with child. It is a timpanie, saith she. A timpany with 2 heeles, quoth THE BISHOP OF LONDON: but her petition was not graunted for the present.

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In the Court of High Commission, 26 Aprilis, 1632.

Mr ENGLISH: The Minister of Hardwick promoted a suit against S<sup>r</sup> Harbotle divers of his Parishioners for christening of a catt, and they were heertofore sentenced. The Parishioners petitioned the King concerning this and some other matters, which was referred to S<sup>r</sup> Harbotle Grimstone and S<sup>r</sup> Robert Bowes, and they made certificate inter alia that there was noe such thing as the parishioners were sentenced for, that there was noe such misdemeanor committed.

• See p. 186.

▪ See p. 194.

The Court taking this in derogation of the sentence procured an order from the Councell table, that S<sup>r</sup> Harbotle Grimston and S<sup>r</sup> Robert Bowes should submitt themselves to the High Commission Court: And this day they brought their petition shewing that they had medled beyond the King's reference and wronged the Court, &c. But S<sup>r</sup> Harbotle Grimston seemed in words to defend what they had done, and would give satisfaccion in private to the Bishop of London, and a tyme was appointed by the Bishop for S<sup>r</sup> Harbotle to come unto him at London House.

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Doctor Hooke  
maketh his  
purgation.

Doctor Hooke<sup>a</sup> maketh faith that the certificate of the purgation to be made this day by him was read in the parish church of Netleton 11 Martij ult. Then he produced his Compurgators by name, John Shiboy, Doctor of Divinity, Francis Bradshaw, Thomas Holt Dennis Squire, Mathew Miller, Thomas Clare, Batchelors of Divinity. Doctor Hooke and the rest came in their cloakes, and the said Holt in a carelesse ruffe and his haire somewhat long, for which their comming they were chidden and especiallie M<sup>r</sup> Holt, and they were rejected till they should come as Divines in their gownes, and they went and gott them gownes and scarfes, and M<sup>r</sup> Holt had another ruffe, and a black satten night cap on and they appeared againe; and then the cause was opened by the Doctors both on the one side and the other, the Promoter's Councell shewed the accusations and the proofes against the Doctor: and his Councell shewed his defence: which donne, Doctor Hooke tooke his oath swearing that he was not guiltie of the crymes layd against him, nor any of them: and the sayd Compurgators were first demaunded severallie, whether they notwithstanding all that had bin said, thought the Doctor to be cleare and innocent, and they

<sup>a</sup> See p. 259.

all did answere severallie, Yes. Then they tooke their oathes swearing that they thought in their consciences that Doctor Hooke had taken a true oath.

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Doctor Gibbons his eldest brother prosecutes him in this Court Doctor Gibbons. for adulteryes, and clandestinelie marrying of himself to his now wife. The Doctor's Councell shewed that this is of malice, because their father disinherited the elder, and placed it upon the Doctor, and shewed that he was married to her long before, and desired it might be referred to the Ordinarie. But it was reteyned heere, because it is fitt the Doctor should be cleared in the most publique place, and ordered that the promoters make their proofes speedelie, viz. by the first Court day of the next Terme.

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The said George Amy was accused by the Articles, that whereas Lord Lovelace the Parish Church of Hurly is a consecrated place, and the people against George Amy, gent. were there congregated together 21 August last, and the said Lord Lovelace was there, and heard divine service and sermon, that in the said parish the Lord Lovelace had an house, and the said Amy might have repaired thither. That the said Amy had heeretofore Articles. divers suits with my Lord Lovelace, and had served divers letters and processe upon him, and had free accesce and good usage still: That yet the said 21 August ult. the said Lord Lovelace being in the Chauncell of the said Church before the Congregation was departed, He did serve the Lord Lovelace with a *subpœna ad audiendum indicium* in the face of the Church to his disgrace and the disturbance of the minister, &c. notwithstanding that the Lord Lovelace was in health and went abroad, and did not hide himselfe: That afterwards he said, " If the " (said) " Lord Lovelace be angry I care not for it:" And that the said Lord Lovelace told the Lord Keeper of this affront donne him, who directed him to bring this suit.

Answered.

MR. AMY answered that he did not serve the processe to disgrace the Lord Lovelace, nor did he disturbe the Minister or congregation, for they were readie to depart; after all the service donne, and he thought he had not donne ill in it, &c.

Eden for the Promoter.

DOCTOR EDEN shewed that this was a profanation of the place and donne against the Ecclesiasticall law, that this is not the first cause that have been here sentenced in this kinde; That some have been sentenced for serving of processe upon some goinge to church, and there is a Statute against chiding in the church, &c.

Duck for the Defence.

DOCTOR DUCK saith that other Courts may take conusans of this act if it be any offence, as my Lord Keeper in the Chauncery; the Lord Marshall, and Constable for repaire of Honor and he taketh it in law there is *citatio realis* and *citatio verbalis*, that this last, if it be donne in the Church, is not censurable: thus saith Bartram *verbalis citatio potest fieri in Ecclesia*:

Sentence.

It was declared by the Court that this was a profanation of the Church, that a vessell ought not to be carried through the church (saith S<sup>r</sup> HENRY MARTIN), and therefore a Subpoena is not to be served in the Church: and whereas there might be an objection that if it be a temporall processe, it is a profanation; but if a spirituall, tis not; he observed that the ecclesiasticall processe doth not enter within the Church, but is fixed upon the doore: *Quære de hoc*, for I have seene processe sett up in a Church. The Sentence was that the said Amy should submitt himselfe to my Lord Lovelace and aske him forgivenes, and pay costs of suit.

In the Court of High Commission, 3 Maij, 1632.

Conventiclers. This day were brought to the Court out of prison divers persons (and some of them appeared by bond) which were taken on Sunday last at a Conventicle mett at the house of Barnett, a brewer's

clarke, dwellinge in the precinct of Black Fryars: by name, John Latroppe their minister, Humphrey Bernard, Henry Dod, Samuell Eaton [William] Granger, Sara Jones, Sara Jacob, Pennina Howse, Sara Barbon, Susan Wilson; and divers other there were which appeared not this day. M<sup>r</sup> Latropp the Minister did not appeare at the first, but kept himself out of the way a while, therefore the man of the howse wherein they were taken was first called: who was asked when he was at his parish church? He answered that he was then at his parish church when they were in his house, and that he useth to goe to church, but his wife will not. Then said THE ARCHBISHOP OF YORK, "Will you suffer that in your wife?" Then said THE KING'S ADVOCATE "These persons were assembled on Sunday last at this man's house in Black Fryars and there unlawfullie held a Conventicle, for which there are Articles exhibited in this Court against them; I pray that they may be put to answere upon their oathes to the Articles, and that they sett forth what exercises they used, and what were the words spoken by them." "And as for you, Mr Dod," (quoth THE ADVOCATE) "you might well have forborne, seing you have been warned heeretofore, and passed by upon promise of amendment." "Good M<sup>r</sup> Advocate, spare that," saith DOD. He was asked whether he useth to come to his parish church. He saith he hath come to his parish church as often as he could and useth to come thither, but he endeavoureth to heare the most powerfull ministry. "And therefore," said THE BISHOP OF LONDON, "you heare Mr. Latroppe. What ordination hath he?" "He is a minister," saith M<sup>r</sup> Dod. "Did you not heare him preach and pray?" saith the BISHOP. "Nay you yourself and the rest take upon you to preach and to be Ministers." "Noe," saith M<sup>r</sup> DOD. LONDON, "Yes, you doe, and you were heard preach and pray." DOD, "I shalbe readie in this particular to confesse my fault, if I am convinced to be in any." Then two of them were put to their oath, but they desired to be excused for this tyme, and that they might have some time to consider and be informed of the oath.

Then said THE ARCH-BISHOP OF CANTERBURY, " You shew yourselves most unthankfull to God, to the King and to the Church of England, that when (God be praySED) through his Maties care and ours you have preaching in every church, and men have liberty to joyne in prayer and participation of the Sacraments and have catechizings and all to enlighten you, and which may serve you in the way of salvation; you in an unthankfull manner cast off all this yoake, and in private unlawfullie assemble yourselves togeather, making rents and divisions in the Church. If anie thing be amisse, let it be knownen, if any thing be not agreeable to the word of God, we shalbe as readie to redresse it as you, but whereas it is nothing but your owne imaginations, and you are unlearned men that seeke to make up a religion of your owne heads! I doubt noe persuasion will serve the turne. We must take this course: you are called heere: let them stand upon their bonds, and let us see what they will answere, it may be they will answere what may please us." LONDON. " It is tyme to take notice of these, nay this is not the 4th parte of them about this cittie, you see these came of sett purpose they mett not by chance, they are desperatlie heretical: they are all of different places, out of Essex, St Austin's, St Martin's Le Grand, Buttolphs, Algate, Thisleworth, St Saviours: let these be imprisoned. Let me make a motion; There be fower of the ablest men of them, let these 4 answere and be proceeded against, and the while if the rest come in, they shalbe received, but if they will not, I know noe reason why 4 or 5 men should [not] answere for all.

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Francis Litton  
for pissing in  
Saint Paul's  
Church.

Because the rest were not come in they went to another matter which was against one Francis Litton (as I take it his name was). He was apprehended in Paule's for pissing against a pillar in the Church. THE BISHOP OF LONDON shewed, that he had received order from the Lords of the Councell, that men and woemen should

not carry base things through the Church, and that there should be noe walking nor talking in the Church in the tyme of Divine service, and these orders among others are sett up on the dores. This man was goinge through the Church to be married, and he could not hould, but must needs ease himself in this inhumane manner. Why did you doe this? LITTON fell downe upon his knees and desired mercie, he knew not where he was, he is a country man and never was at London before, and he knew it not to be a church,<sup>a</sup> and is very sorry for his offence, and prayeth to be released, but he is committed againe to prison.

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Then came in Mr. Latropp, who is asked what authority he had Latroppe.<sup>b</sup> to preach and keepe this Conventicle? and saith THE BISHOP OF LONDON, " How manie woemen sate crosse legged upon the bedd, whilst you sate on one side and preached and prayed most devoutlie? LATROFFE, " I keepe noe such evill companie, they were not such woemen." LONDON: " Are you a Minister?" ARCHBISHOP OF CANTERBURY, " Are you a Minister?" BISHOP OF St DAVID'S, " Were not you Doctor King the Bishop of London's Sizer in Oxford? I take it you were; and you shew your thankfullnes by this." He answered that he was a Minister. LONDON. " How and by whom qualified? Where are your orders?" LATROPP. " I am a Minister of the gospell of Christ, and the Lord hath qualified me." " Will you lay your hand on the booke, and take your oath?" saith the Court. He refuseth the oath.

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<sup>a</sup> Does this mean that the crowd of chatterers was so great that he did not recognise the place as a church, or is this simply an attempt to brave it out?

<sup>b</sup> See p. 280.

Seates in S<sup>t</sup>  
Austin's  
Church above  
the Com-  
munion table.

The rest appeared not yet, and therefore they went to other businesses, and first THE BISHOP OF LONDON chideth most vehementlie with the Chauncellor, for not causing those of S<sup>t</sup> Austin's parish to appeare about their seates, made new above the Communion table, that they might sitt above God Almighty, in his owne house said THE ARCH-BISHOP OF YORK and THE BISHOP OF LONDON. He saith that he sent for these men, and he hath been scorned and abused by them, never anie Ordinarye more. THE CHANCELLOR excuseth himselfe promising they shall appeare the next Court day.

Wright, Vicar  
of  
in Essex.

DOCTOR DUCKE for the Promotors against one Mr. Wright a Vicar in Essex who is accused for adulterie committed with his maid servant in gettinge her with child, and in particuler for lying with her in an Inne called the Falcon in Greenhith in Kent; that whereas divers witnesses are examined and there will arise a doubt upon the proofes, whether she were the woman and he the man that lay there that night, he desireth for the Promoters that the women may be produced, for they say it was another woman and another man, and that other man being a Minister is supposed to be since dead, therefore that these women may be confronted, and the witnesses may see them, and the truth may appeare. DOCTOR EDEN for M<sup>r</sup> Wright saith that this is an unusuall thing, and not to be graunted after publication. The Court doth not graunt Doct<sup>r</sup> Duckes Motion, but it is deferred till the next Court day.

Doctor  
Gibbons.<sup>a</sup>

DOCTOR GWINNE moveth against Doct<sup>r</sup> Gibbons, That he hath answered, but that he doth not answere at all to the Articles of his marriage, but saieth *non tenetur de jure respondere*: That is, saith Doct<sup>r</sup> Duck, because he hath answered this alreadie before his Ordinarie, He confesseth he was married clandestinely for which he hath been converted, and hath answered, and beene punished by his Ordinary. Saith DOCTOR GWINNE he is accused for adultery

<sup>a</sup> See p. 277.

and getting 4 children on this woman; we must knowe whether she were his wife or noe, and when they were married. DOCTOR DUCK. "Incontinency betweene a single man and a single woman, call you this adultery?" The Court directed the Articles to be read: and in the Articles he is accused that he, the said Francis Gibbon did keepe in his house at Shrewsbury in the yeares 1624 and 25 and soe to 1631, and that at those tymes he had carnall knowledge of her 4. 2. or 3 tymes, or at least once: That 1629 she was delivered of a child in secret, and it was kept from the knowledge and speech of people, and another child was heeretofore borne of her bodie, while she lyved in the house, and the children are provided for. That he keepeth a boy of 2 yeares ould or a yeare and halfe at least, and paith for the nurseing of him! That they were not christned nor publiquely entred, nor their names and their parents sett downe in the Church booke of any parish. That the said Elizabeth did then dwell and yet doth in the said Francis Gibbon's house: That this boy was and is in truth the said Francis' base begotten, that this is true and notorious, and that another woman child was borne of her bodie 1629, and another before that: That he did not confesse she was his wife till 1631, and that if he be married to her, yet he was not married till August 1631, *salem*, not before Aprill 1631; therfore let him declare how and before whom he was married: And he was a suitor 1628 and 29. to Doctor Rawlins his widdow in way of marriage. Therefore the Court saith he must make this appeare that he is married and when, and ordered that he make a better answere within 4 dayes.

THE BISHOP OF LONDON said he knew one that after he had lived 18 yeares with a woman as his wife, he would have put her away and gone from her, alleaginge they were not married, and DOCTOR BARKER shewed another president of two that lived and cohabited together, maineteyned and defended suits together, and when all came to all they were not married.

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Doctor  
Hooke.<sup>a</sup>

DOCTOR GWINNE moveth for Doctor Hooke that he may be discharged of his suspension, and the Court graunteth it if he do~~th~~<sup>t</sup> reforme himselfe as they hope he will: And he was admonished by THE ARCH-BISHOP OF CANTERBURY not to converse with anie of those women for which he was accused, but in companie and before sufficient witnesses.

Samuell  
Eaton.

Samuel Eaton and two women and a maid appeared, who were demaunded why they were assembled in that Conventicle when others were at church? EATON. "We were not assembled in contempt of the Magistrate." LONDON. "Noe, it was in contempt of the church of England." EATON. "It was in conscience to God, (May it please this Hon<sup>ble</sup>le Court) and, we were kept from Church, for we were confyned in the house together by those that besett the house, els divers would have gone to Church and manie came in after the sermons were done." LONDON. "These were first discovered at Lambeth, and then at other places and now taken heere, they have in their meetinge booke printed against the Church of England": ARCHBISHOP OF CANTERBURY. "Where were you in the morninge before you came hither to this house?" "We were in our owne families." CANTERBURY. "What did you?" "We read the Scriptures and catechized our families" saith Eaton: "and maie it please this honourable Court to heare us speake the truth, we will shew you what was donne, and, free us of the contempt of authority, wee did nothing but what you will allow us to doe." LONDON. "Who can free you? These are dangerous men, they are a scattered companie sown in all the citty, and about St Michaell of the Querne, St Austins, Ould Jury, Rediffe, and other remoter places. Hould them the booke." EATON.

<sup>a</sup> See p. 264.

"I dare not sweare, nor take this oath, though I will not refuse it, I will consider of it?" S<sup>r</sup> HENRY MARTIN. "Heare, heare, you shall sweare but to answeare what you know, and as far as you are bound by law. You shall have time to consider of it, and have it read over and over till you can say it without booke if you will, when you have first taken your oath that you will make a true answeare." EATON. "I dare not, I know not what I shall sweare to." KING'S ADVOCATE. "It is to give a true answeare to articles put into the Court against you, or that shalbe put in touching this conventicle of yours, and divers your hereticall tenents, and what wordes, and exercises you used, and things of this nature." EATON. "I dare not."

ARCHBISHOP OF CANTERBURY. "What say you, woman?" Sara Jones. S. JONES. "I dare not worship God in vaine," but saith THE BISHOP OF LONDON, "will you not sweare and take an oath when you are called to it by the Magistrate?" S. JONES. "Yes, I will answeare upon my oath to end a controversy before a lawful magistrate." EARLE OF DORSETT. "What, doest thou thinke woman of these grave Fathers of the church, that these heeſe be not lawfull Magistrates?" [S. JONES.] "I would doe any thing that is according to God's word." ARCHBISHOP OF YORKE. "Would you? Then you must take your oath, now you are required by your governours, you must sweare in truth, in judgement, in righteousness." S. JONES. "Yes, and they that walke in righteousness shall have peace, but I dare not forswear my selfe."

CANTERBURY. "Come, what say you?" PEN. "I dare not sweare this oath till I am better informed of it, for which I desire tyme: " SIR HENRY MARTIN. "Must you not be readie to give an answeare of your faith?" PEN. "Yes, I will give an answeare of my faith, if I be demaunded, but not willinglie forswear my selfe."

KING'S ADVOCATE. "What, will you take your oath, good woman?" S. BARBONE. "I dare not sweare, I doe not understand it. I will tell the truth without swearing." ARCHBISHOP OF

CANTERBURY. "Take them away." Soe they were all committed to the New prison, and it was appointed, that at the next Court, being a fortnight after this, because of Ascention day, they should be brought againe to the Consistorie at Paules, because of trouble and danger in bringinge soe manie prisoners as there were over the water to Lambeth.

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Goodcoale  
against George  
Long, Esq.  
and his Sonne  
and 4 others  
or 5.  
The Articles.

Then the Court proceeded to the hearing of Mr Long's cause, wherein the Promotor shewed that the Church of St James Clerken Well, being very much out of repaire, and fallen downe, the said George Long by his imperiousnes perversnes and opposition hindered the repairinge of it, and shewed in particuler that he threatned some of the vestry men, to lay them by the heeles. 2. That the said Georg Long tooke divers loades of loppes and topps of trees given by his Ma<sup>tie</sup> to repaire the said Church to his owne use, and carried away two loggs of tymber provided for the Church to the building of his owne house, without the consent of the parish. 3. That he having received moneys for the poore did not make an account of it: howbeit there is an account foysted into the booke under Mr Long's hand, contrary to the custome of the parish. 4. That when the Church was in buildinge, he tooke divers loades of lyme that were bought and brought for the Churche's use, home to his house and used the same, soe that the lyme-seller refused to make any more provision in lyme, because he would not sell to Mr. Long at the same price; to the hinderance of the worke. 5. That divers faire stones were brought to the Church to build it, and he caused 60 foote of them to be carried home to his house, and to be used in makeing of his windowes, and stepps in his garden, and gave noe account, &c. 6. That Mr. Goodcole being preaching, Mr Long scoffed at him, and the people leaft their attention, and fell to laughter. That he and Mr Tracy jogged their elbowes when he

prayed for the Earle of Dorsett, and laughed at divers passages in his sermon, soe that he was faine to leave off his preaching for a tyme, and used some godlie admonition, and M<sup>r</sup> Tracy went out of the Church: and that it was said by dyvers that it was because M<sup>r</sup> Long laughed at M<sup>r</sup> Goodcole. 7. That he received money of the collection for the Church; and he was foridden by Polle the Churchwarden to intermedle with the money that was gathered by vertue of the breife, but he did medle and divers refused to pay the Church Warden, whereas M<sup>r</sup> Long was noe Pattentee, but a private Commissioner. 8. That 14 loades of rough stones were used about pavinge Mr. Long's Court yard, which were bought and provided for the Church, and noe account given of them by him; and that George Longe the yonger mett the carts and directed them home to his fathers house, sayinge it was by his father's commaundement. 9. That some of the tymbre of the church was used or caused to be used about building M<sup>r</sup> Long's stable, and raylinge his fishpond: And the proofes were read to everye article severallie.

Then was read the defence: That there are in the said parish a The Defence. certeine number of vestry men, by vertue of an instrument confirmed by the Ordinary and sealed, made ANNO 1623. that the same and the booke of account are kept in a chest under two locks and keys whereof one churchwarden keepeth one, and the other keepes the other, and noe goeing to the chest by one without the other, nor anie account to be made but in publique: and that all matters of the Church affaires are by the said Vestry Men ordered, and the orders entred into a booke for that purpose. That the said account was made duly, and entred in the booke of accounts for the poore's money. All the Promotor's proofe was the suspicion of Lee one of the Churchwardens, who upon his death bed said, he knew not how the said account should be made, but that once he lent his key to his fellow Churchwarden, who borrowed it under colour of searching for a bond, to save the parish harmlesse of a bastard child, and that he thought by reason of his fellowe's acquaintance with M<sup>r</sup> Long, that this account was then foisted in. M<sup>r</sup> LONG saith,

that the Church is now built fairer then it was; and one of his witnesses said, that Mr Long was a good benefactour. And Mr ROBERT YATES, the Vicar there saith that he believeth Mr Long is one that will not wrong the Church, and that he procured a Surveyor, and thinketh the church, but for him, had layen longer unrepayred. That he was the instrument to gett the breife for the Church; and that he was a chiefe mover in obteyning the graunt of the trees of his Ma<sup>tie</sup>. That 20 trees were brought out of Barkshire to the Church, and there were two manie for that use, wherefore there was an order made by the Vestry that such trees as were to manie should be sould for the benefitt of the Church: That the loppes and topps were all worth but 46*s*, and he agreed with the Ranger of the Forrest for them, and that he had certeine of those trees, and made a just account for them: and Mr Long repaiied 10 loades of stone that were rugged stones, for soe manie borrowed, and there were more then enough for the worke, and manie loades yet lye unused in the Churchyard: that the piece of timber which he had to make his mantle-tree, it was new tymber and cloven, and not fitt for the Churche's use, it was not worth above 3 or 4*s*, and he paid soe much to one of the Churchwardens for it, by agreement. For the money of the poore it was received by him 9 or 10 yeares since, and he made a just account of it long agonne how he had in particular disbursed it; some for putting poore children apprentices, and some for releife of the poore otherwise: that the money which he received upon the collection by the breifes was by vertue of a Commission of superintendency granted unto him by his Ma<sup>tie</sup> by reason of abuses committed by two others that were formerlie imployed in collecting the same: and that by his care and charge he procured an increase of the colleccion and contribution both for the church and the poore; and divers witnesses testifized that he paid back all those moneys by him received, upon their consciences: and soe Mr LONG himselfe deposed on his oath in his answere. That touchinge the disturbance divers persons of good fashion witnessed, and the said Mr Yates that sat nearer Mr Long then the Promotor's

witnesses said they did behould Mr Long, but saw noe unseemlie behaviour in him, and that the children laughed and Mr Long rebuked them. That the people tooke noe notice of the disturbance, till Mr Goodcole himself gave occasion to them to stand at gaze. That Mr Long is a very religious man, or thought soe in publicke, and the deponents never knew or heard anie thing to the contrarie, but this; and whether he be guilty or noe, of it, this deponent knoweth not. Mr Goodcole complayned of this disturbance to my Lord Cheife Justice, and Mr Long was warned to appeare before him, but Mr Goodecole never came. That Mr Long gave 5*l*li** out of his purse, and lent 100*l*li** freely towards the building of the said church, and that he useth his best endeavours to benefitt the said church and parish, and ever did since the deponent knew of his said endeavours, which he hath taken notice of divers yeares. That the tymber which was taken for Mr Long's use was old timber, and he paied new and better for it, and it was taken by his servants and workemen without his direccion.

Exceptions against the Promotor's Witnesses. Roger Woodbridge is the Promotor's Sollicitor. Pristed, one of the witnesses, was committed to prison to Newgate 12 Oct. 1630, for abusing Mr Long and his wife, and he hath likewise sollicited the cause. Alexander Jones is a poore silly fellow, and lives on the almes of the parish, and is a naturall foole. Polle is a victualler, and Mr Long caused him to be committed for misdemeanours to Newgate, and he hath borne him evill will ever since. That divers of these witnesses sett their hands to a petition to the Parliament, wherein they accused Mr Long that he had used and converted divers stones and tymber trees and other materialls provided for the building of the church aforesaid to his owne behoofe, and built his own house therewith. That Mr Long brought his accion at law for this scandall, and for saying that he tooke and extorted undue fees to the disgrace of the honorable office of a Justice of peace, and he recovered 200*l*li** dammages against some of

them. That they preferred their petition to the King, wherein they shewed that Mr Long had abused the King's Matie in takeing some of the trees his Ma<sup>tie</sup> gave to the church and other materialls to his owne use, soe that his house was built, and the house of God was unfinished, which was referred to Mr Justice Jones and Mr Justice Doderidge 8 No: 1629, and the Judges rebuked Mr Goodcole, and did nothing against Mr Long, but referred it to this Court. One Robert, Mr Long's man heeretofore, now one of the Promotor's witnesses, testified out of ill will, being gone from him out of displeasure and for some faultes, and he promised he would doe soe:—and one that was put out from being' governor of the house of correction for suspicion of a rape by Mr Long's meanes, a witnesse against him. Mr Long made good prooef of all this.

Advocates for  
the Promotor,  
Reeves;  
Zouch;  
Clarke.

Delivered for law by the Advocates on the Promotor's part that Mr Long cannott take the stones of the Church and repay as good, and that Mr. Long's sonne being noe child but a growen man is to beare the fault (if he hath donne any) in obeying his father rather than God: rather than the Law. That those witnesses are some of them Vestry men, and they are not for that cause onlie to be rejected, for who can prove things done in vestryes or spoken there but they, and besides they depose not *in rem suam*, but in a publique cause. That Mr Long makes a generall defence, that he hath beene questioned in Parliament and recovered dammages at law, that he hath been petitioned against to the King; and the Judges, to whom it was referred, did nothing. All this should have bin shewed to have been before the Articles were admitted in this Court: and for exceptions against the witnesses, some are put out of their places, some are ymprisoned, &c.: this should have been shewed to have been before the matter stirred. If these things shall take away testimonie, it is easie to make anie man an enemy. That which is not *atrox injuria* to another, is to a Minister. That person scandalizing being a Justice of peace, the offence is the greater, and the scandall is by him that giveth the occasion, and not in him that reproveth the offendour. That Mr Stacy that was

*particeps criminis*, was not to be admitted for a witnes on Mr Long's parte. That this is *crimen publicum* against the Statutes of Queen Mary and Queen Elizabeth, and against the Canons. That he might not use anie of the wood or materialls as the tymber or lead of the church, it is not to be taken *in Laicorum usum*: therefore not to build a stable. Such things if not needed in this church, if they were of the Church before, ought not to serve *ad humanos usus*, much less *ad profanos*. *Edes sacrae Theologie*, &c. if a church fall downe, the materialls must not serve to common uses, but rather be committed to the fire.

On the part of the defence: that all the witnesses almost joyned in the peticions to the Parliam<sup>t</sup>, and to his Ma<sup>tie</sup>; but heere M<sup>r</sup> Goodcole is the prosecutor, and they are the witnesses, and therefore not to be taken, and that for the disturbances in churches, the Statutes are, if any person shall by open act or acts, or by publique words disturb, &c. Not a jogge or a smile, and nothing was seene till Mr Goodcole spake. That divers others bought of the stones, as a chandler and others, and this was noe sacrilege, but it is alleaged for sacrilege in Mr Long. And it was shewed that the witnesses were justly excepted against for complayning to the highest Court, then to the King, and now to be witnesses heere in this cause. This was a bould part in them and the prosecuter, and urged that 4 of the Defendants had nothing worthy of hearing, or thought fitt by the Court of Informacions, to stand in the breifes against them. That therefore they are to have their charges.

Advocates for  
the Defence,  
Duck:  
Wood:  
Eden.

Soe the Court came to give their Sentence. Whereby all the Sentence. Commissioners declared, that Mr Long had made a very punctuali defence, and appeared to be very innocent. Therefore, and because of the malice and animosity of the prosecutor against him, Mr Long and all the other Defendants were dismissed: and Mr. Goodcole was ordered to pay their costs of suit: THE EARLE OF DORSETT then sitting in Court as a Commissioner, and gave his sentence, but would have the payinge of costs spared, and advised Mr. Goodcole

to submitt himselfe to Mr Long, who yet refused soe to doe; soe that the Earle and the Court seemed to be much displeased with him.

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In the Court of High Commission at the Consistory in Paules, 8 May, 1632.

Conventiclers. This day<sup>a</sup> all those that were taken in the Black Fryars were brought by the Court under the custodie of the Keeper of the New prison. The King's Advocate shewed that they were taken at a private Conventicle and prayed that they may take their oathes to answere the articles which are putt in against them.

Sara Jones. First. Sara Jones was asked, of what parish she was? She said she dwelleth at Lambeth. LONDON. "Doe you come to the church?" S. JONES. "None accuseth me to the contrary." LONDON. "Where were you upon Sunday was sennight?" S. JONES. "When I have done evill and my accuser come, I will answere." KING'S ADVOCATE. "I doe accuse you, take your oath and you shall knowe your accusacion." S. JONES. "I am afraid to take God's name in vaine, I knowe noe other worship then God hath appointed." LONDON. "This you are commaunded to doe of God who saith you must obey your Superiors." S. JONES. "That which is of God is according to God's word, and the Lord will not hold him guiltlesse that taketh his name in vaine."

Sara Jacob.  
Marke Lucar. S. Jacob was called to the booke, but she refused alsoe. Then was called Marke Lucar: who was asked of what parish he was and when he was at church? M. LUCAR. "I am yet to chuse of what parish to be; and I doe not remember the day of the moneth when I was at church." LONDON. "He doth not remember, I dare say, the day of the moneth nor the moneth of the yeare when he was<sup>at</sup>

<sup>a</sup> See pp. 278, 283, 284.

church, but he dwelleth in St. Austin's parish. Offer him the booke." M. LUCAR. " If I may knowe a law and ground for takeing this oath, I will take it, but I desire to know my articles before I take my oath." ARCHBISHOP OF YORKE. " Whether doe you know or noe that the King hath power to take an account of your proceedings ?" LONDON. " Att their perrills. Aske the next."

John Ireland was asked where and when he was at church. He John Ireland. saith at Mary Maudlins Church in Surrey. And that he was at morninge church within this halfe yeare ; but being asked the booke, refused to sweare. Then were called 4 others, Toby Talbot; William Pickering; Mabell Milbourne; William Attwood; and were put to their oathes. And first TALBOT saieth in his excuse, that he knoweth not the articles what they are; and before he would take this oath he would know his accuser. S<sup>r</sup> HENRY MARTIN. " The law is, that those that are taken in these Conventicles and remaine obstinate, that they shallbe made to abjure the kingdome, and if they returne, or obey not, it is felony: therefore, freinds, take heed to yourselves, and know that you have more favour then yee deserve." PICKER- Willm. ING. " I trus<sup>t</sup> I have done nothing against the law, and for this oath, I doe not know what belongs to it;" and he refuseth to take it. ATTWOOD saith, he doth not know what the booke is. M. William MILBOURNE being asked whether she would take her oath, she said Mabell Attwood. that she would not. Mabell Milborne.

LONDON spake to Dod, Latroppe, and the man of the house. " Henry Dod, you are the obstinate and perverse ringleaders of these folkes: you had a faire admonition the last Court day : and you have this day assigned you to answer upon your oath." DOD. " I Henry Dod. hope we are not soe impious: we stand for the truth: for takeing the oath I crave your patience, I am not resolved upon it." BREWER'S CLARKE.<sup>a</sup> " I was at the church, but for takeing the Barnet. oath I desire to be resolved." LONDON. " Mr. Latroppe, hath the Lord qualified you ? What authority; what orders have you? the

<sup>a</sup> See p. 278.

Lord hath qualifyed you; Is that a sufficient answere? You must John Latropp. give a better answere before you and I part." LATROPP. "I doe not know that I have done any thing which might cause me justly to be brought before the judgement seat of man: and for this oath I doe not know the nature of it."

KING's ADVOCATE. "The manner of the oath is that you shall answere to that you are accused of, for schisme." YORK and LONDON. "If he will not take his oath, away with him." LATROPP. "I desire that other passage may be remembred; I dare not take this oath." Wherefore the Court ordered that they should be kept in straight custodie, especiallie Latropp, for the BISHOP OF LONDON said he had more to answere then he knew of.

Samuel Eaton. SAMUELL EATON being demaunded whether he would take the oath: he answered, "I doe not refuse it, though I doe not take it: it is not out of obstinacie, but, as I shall answere it at the Last day, I am not satisfyed whether I may take it."

Samuel How. "Samuell Howe!" saith the KING's ADVOCATE, "you are required by your oath to answere to the articles." HOWE. "I have served the King both by sea and by land, and I had been at sea if this restraint had not been made upon me. My conversacion, I thank God, none can tax." REGISTER. "Will you take your oath?" HOW. "I am a yong man and doe not know what this oath is." KING's ADVOCATE. "The King desires your service in obeying his lawes."

Pennina Howes. Then P. Howes was called, and required to take her oath, but she refused. LONDON. "Will you trust Mr Latropp, and beleive him rather then the Church of England?" PENNINA. "I referrre my self to the word of God, whether I maie take this oath or noe." Then were called Joane Ferne and Elizabeth Denne: who refused to sweare till they were informed, and one of them said she could not read a letter in the booke. The KING's ADVOCATE saith their oath was that they should answere trulie as farre as they knew to the Articles. ELIZABETH SARGEANT saith she must not sweare but when she is before a Magistrate. "Why now," saith

Joane Ferne.  
Elizabeth  
Denne.

Elizabeth  
Sargeant.

the BISHOP OF LONDON, “you are called before the Magistrate, are you not? John Egge! Will you take your oath?” He refuseth: John Egge. “Henry Packer! Will you take your oath to answear the articles?” Henry Packer. H. P[ACKER]. “I doe not deny the oath, though I dare not take it, till I shall know what I shall sweare.” JOHN WOODWYNE, He John being tendered the booke, said, “I desire to know what I shall Woodwyne. sweare to, and what is the end of his oath,” before he will sweare. JOHN MELBORNE. “I am not well perswaded of this oath, yet I John will not deny it.” ELIZABETH MELBORNE. “I doe not know any Elizabeth such thing as a Conventicle, we did meeete to pray and talke of the Melborne. word of God, which is according to the law of the land.” YORK. “God wilbe served publiquely, not in your private house.” THOMAS Thomas ARUNDELL of St Olave’s parish refuseth to take the oath for the Arundell. present, till he knew the Articles, that he might informe himself. William Granger of St Margarett’s in Westminster. He being William called, THE BISHOP OF LONDON spake unto him saying, “Granger! Granger. You look like a man of fashion: will you take your oath to answere to the articles according to your knowldg, and as farre as you are bound by law?” GRANGER. “I desire to have some tyme to consider of it.” LONDON. “I would not have any of the standers by thinke that you or any of these have not had tyme to consider of this, you rent and teare the Church and will not submitt yourself to the tryal of law. You must know the justice of this Court is lymited, and you may be driven to abjure the Realme for your offence.” Then Robert Reignolds of Thistlewoorth was tendered the Robert oath. He desired to speak 2 or 3 wordes: Reignolds. “If I have done any thing against the law, lett me be accused by the course of the law: if I thought this oath might be taken with a good conscience, I would take it; and I doe for the present desire you, though you doe not pitty me, yet to pitty my poore wife and smale children.” YORK. “Pitty your wife and children yourself, and lay your obstinacy to your conscience.”

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Wright.

DOCTOR DUCK, for the Promotors against M<sup>r</sup> Wright,<sup>a</sup> a minister, moved againe for the confrontation of the two women. The woman that lay with her husband at the Falcon at Greenhith, being supposed by M<sup>r</sup> Wright to be one M<sup>r</sup> Unnion's wife, which M<sup>r</sup> Unnion is since dead. But M<sup>r</sup> Wright's Councell, Doct<sup>r</sup> Eden, would not condiscend to it, and the Court shewed that it was a matter of weight, and therefore to be advised on. And THE BISHOP OF LONDON said he had heard a worse matter of M<sup>r</sup> Wright, out of which how he would free himselfe he did not knowe. One of the prosecutors tould me, that this Wright, in his cupps, related to one S<sup>r</sup> Thomas Wiseman's sonne and some others, that the Bishop of London was present with Doctor Price, when he received the sacrament of a Priest, and that he dyed a Romane Catholike: and S<sup>r</sup> Thomas Wiseman's sonne saying he thought most of the Bishops were in their judgements Romane Catholiques. Wright swoare, yea, that they were, and most of the cleargie too; and for my part, I am of that minde, and wished that if he dyed not soe, that bread which he then took up and eate might not doe him good. The Bishop of London, hearing of this, sent a letter to Doctor Ayloff, to examine whether it were soe. He did examine the matter, and wrote a letter that he had soe done, and found that the witnesses stood to it. And this letter was sent to the Bishop of London or his Chancellor (I know not whether) by him that tould me this, as he assured me.

M<sup>r</sup> Barker,  
the Printer.

M<sup>r</sup> Barker, the printer. There is a cause begunne against him for false printeing of the Bible in divers places of it, in the Edition of 1631, vitz., in the 20 of Exod[us], "Thou shalt committ adultery"; and in the fifte of Deut[eronomy], "The Lord hath shewed us his glory, and his great asse"; and for divers other faults; and that they had printed it in very bad paper. And the BISHOP OF LONDON shewed that this wold undoe the trade, and was a

\* See p. 282.

most dishonorable thing; that they of the Church of Rome are soe carefull, that not a word or letter is to be found amissem in their Ladie's Psalter and other superstitious booke; and that we should not be soe carefull in printinge the sacred Scriptures; and that they in Holland, at Amsterdam, had gott up an English presse, and had printed the Bible in better paper, and with a better letter, and can undersell us 18*d.* in a bible. M<sup>r</sup> Barker and his partners endeavoured in partt to excuse themselves, and had advocates to speake for them, and were willing to submitt, and promised to amend their faults; but the Court would not remitt their offence, but the cause was ordered to goe on.

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William Sounde, Nicholas Gerard, John Pococke, Daniell Halm- Seats in St  
worth, and two others of St<sup>t</sup> Austins parish, near Paule's gate,  
appeared upon letters, and tooke their oathes to answer the articles  
that were in the Court against them, about their seates in the  
Church above the Communion table. THE BISHOP OF LONDON  
said he had been scorned and slighted by these men in an irreligious  
manner. He saieth he will not take that upon him which he will  
not let be knowne heere; you have made your seates round about  
the Communion table; you must not prepare your seates above  
God; I desired fairely you would take away the seates; you  
answere, "We durst not doe it; we have noe such custome." The  
parishioners answered that these seates were made there upon an  
ould foundation, and that they were built for necessity, their church  
being to litle for the parishioners; and if they have not roome,  
they must goe to other Churches. LONDON. As good as you stand,  
and have stood. Why, there are noe seates in any church of any  
kingdome but this; and what then is your tymc out of minde?  
For tyme was when there were noe seates in any Church among  
us.

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Litton.

Francis Litton<sup>a</sup> petitioned, humbly shewing that he is troubled often with a disease called the stone, and entring into St Paule's Church, he did endeavour to make water within the doore. He is farre of from his freinds, and submitteth himself humbly to the Court, beseeching their pardon, for he knew it not to be a Church. Being asked where he dwelled, he saith, three myles from Bedford. He fell downe upon his knees and wept desiringe their Lordships to forgive him. Whereupon the Court was inclined to favour him; and soe ordered, if upon examinacion it were found he did it ignorantly, and he was to gett bayle.

In the Court of High Commission, 7 Junii, 1632.

|                          |   |   |            |   |
|--------------------------|---|---|------------|---|
| M <sup>r</sup> Sandiland | - | - | Plaintiff  | } |
| Paule Pole, gent.        | - |   | Defendants |   |
| Nich: Bloxham, cl[erk]   |   |   |            |   |

In a cause of Simonie.

The State of  
the Cause.

Samuell Waller, Parson of great Waldingfeild, in the County of Suffolke, dyed Anno 1622, or therabouts. After whose death, Paule Pole, patron of the said church, simoniacally presented Clempson, viz., in this manner, that before institucion he covenanted with the said Pole to seale a lease of the Parsonage house, Rectory, and Tythes of the said Church of great Waldingfield unto the said Pole, under a farre lesse rent then it was worth. One Clare told Brooke, Bloxam's uncle, that the said church was in laps by Simonie, and Clare dealt by one Duncombe to make the bargaine with Brooke, who said he would faine have it for Bloxham, and it was agreed that Duncombe should procure the King's hand and prosecute the suit of *quare imp[edit]*, and for this Bloxham became bound unto Duncomb in 200*l* for the payment of 100*l*, and Bloxham was further bound to pay to Clare 400*l* by 50*l* half yearly after his

<sup>a</sup> See p. 281.

institution. Bloxham brought the *quare impedit* in the King's name against Clempson, and came to Paul Pole, and desired him to discover the truth and to witnesse against Clempson, which at first he was unwilling to doe, because he had of him 40*l* *per annum*. Then Bloxham offered him, if he would give evidence against Clempson to evince him of his Simonie, that he would give him 60*l* *per annum* durante his incumbency. Pole and his wife did accordinglie give evidence against Clempson at Bury Assizes, and Bloxham acknowledged a Statute of 600*l* to John Pole, sonne of Paule Pole, defesanced for the payment of 60*l* *per annum* to Paule Pole durante his incumbency. Bloxham procured judgement for the King, who presented Bloxham, who was afterwards admitted, instituted, and inducted. Sandiland procured a presentacion from the King, supposing that Bloxham came in by simonie, and brought this suit against both the said patron and incumbent.

The truth of the cause thus appearing, it was delivered for law Doctors for on the Promotor's part, that *Conventio circa beneficium*, is simonie, <sup>the Promotor,</sup> Reeves, Duck, and urged that the 100*l* to Duncombe, and the 400*l* to Clare, and Clark, the 60*l* *per annum* to Paule Pole were all *circa beneficium*, and Gwynne. therefore all three were severall acts of simonie: that to give monie for testimonie, *ut sic specialiter dicat*, as in this case, was a direct offence, and therefore the 60*l* promised *per annum* was simonie. And on the other side it was said, that none of these were simonies, <sup>For the</sup> <sup>defence,</sup> <sup>Eden, Souch.</sup> soe as by the Statute to take away P. Poles patronage, &c.

The Sentence was that the 100*l* to Duncombe, and the 60*l* *per annum* to Paule Pole were both simonies though under other names and titles. *Dare vel accipere aliquid quocunque colore pro spiritu-alibus est simonia.* Paule Pole and Bloxham were both found guilty. P. Pole was fined to the King 500*l*, and ordered to pay costs of suit. Bloxham was deprived, and both to be imprisoned, and the sentence was read presently. *In Dei nomine, Amen, &c.*, in which there was some interrupcion.

Abigail  
Delamar.

Abigail Delamar,<sup>a</sup> a Frenchman's wife, was brought from the New prison to the Court, and required to take the oath. She demanded whether it were the oath of Allegiance; the King's Advocate said it was to answere the truth to the articles in Court against her as farre as she knew and was bound by law. She said, "I neither dare nor will take this oath till I am informed of it, that I may with a good conscience." LONDON. "Her husband is the Queene's servant, and a stiffe Romane Catholique, and she a deepe Familist and Brownist, and one of the Conventiclers taken at Black Fryars; the last weeke ther was a generall fast held in the prison, that they might be delivered out of prison. I gave order that all that came to them that day should be stayed. This woman came, and because she had a great belly she was carried to a Taverne, and her husband was sent for, and findinge her in a Taverne, and yet tould that she was in prison, he thought it not in earnest. They therefore came before me, and I tooke his bond for her appearance, I admonished him to be more moderate, to come to church, and meet his wife halfway, &c." ABIGAIL DELAMAR. "I hould no Familisme, I know not many of their opinions, those that I doe know I abhorre: and as for my comminge into the prison, I came to bring a tayler some worke that I had to doe for him." LONDON. "I pray your grace that she may stand upon her bayle till her belly be unladen, and then we shall talk further with her." ARCH BISHOP OF CANTERBURY. "Your husband, they say, is a Roman Catholique, this is a most absurd thing to professe to be a Romane Catholique, the words imply a contradiction. Rome is a particular Church, Catholicke is universall, then this is as much as to say of a particular universall Church; Nonsense! But, woman, where dwell you, in what parish?" ABIGAIL DELAMAR. "Att Giles where Manwairing dwelleth." CANTERBURY. "How often have you heard him within this 12 moneth? Is that your manners? Why not Doctor Manwaring? is he not a doctor?" AB. DELAMAR. "I have not

<sup>a</sup> See p. 292.

heard him often, for the parliament put him by his preaching a great while." CANTERBURY. "Wilt thou goe heare him the next Sunday?" AB. DELAMAR. "Noe, but I will goe in the M<sup>r</sup> Mew is the afternoone." CANTERBURY. "Why not in the forenoone?" Lecturer there in the afternoone. AB. DELAMAR. "Because then I shall heare popish doctrine; I noone. was once in the whore's bosome, and these hornes thrust me in, but God hath delivered me." CANTERBURY. "What hornes?" AB. DELAMAR. "The hornes of the beast." LONDON. "Whores doe make hornes indeed." CANTEREURY. "But was she ever a papist?" AB. DELAMAR. "Yes, I was once in the whore's lappe, and seinge that I am escaped out of it I shall, God willing, take heed how I am thrust in againe." CANTERBURY. "I see you are an obstinate woman, as all the rest of your Companie are." AB. DELAMAR. "You persecute us without a cause: you have sent 26 of us to the prison, but since we were imprisoned what course have you taken to informe us? Which of you have sent anie man to us, or taken any paines to informe us?" LONDON. "There was a day sett for them to answer at the Consistorey in Paules: but they have the last Sunday petitioned his Ma<sup>tie</sup>, shewing that it is not out of obstinacie, but they decline the Ecclesiasticall jurisdiccion altogether." KING'S ADVOCATE. "Woman, take your oath." AB. DELAMAR. "Noe, this oath is condempned by the law of the land, and I refuse it as an accursed oath, and appeale to the Kinge." I heard that the Saboth day after this Court she delivered a petition to the King, in the name of all the rest, shewing that they refused not this oath obstinately, but that they were afraid it was against the subiects just libertie, to be compelled to take this oath, and shewed that they would willinglie be tryed by his Ma<sup>ties</sup> lawes, or by his Ma<sup>tie</sup> or any of his Lords and Nobles.

Amy Holland did not appeare because of sicknes, as it was given Holland. in answer for her.

Mr. Bates' bond to be certefyed into the Exchequer, and his Bates. sureties to be compelled to bring him in, because it is said, that he lay about the towne, and now is gone to Amsterdam.

Grafton. Grafton an upholster, one of the Black Fryers companie is ordered to give bond for his appearance at the next Court.

Barbon. Sara Barbone being bound to appeare is escaped, and hideth her selfe, her bond to be certefyed in the Exchequer.

Wilson. Phillis Wilson, being one of them that were taken at Black Fryers, was tendered the oath, but she refused, saying she durst not sweare unadvisedly. KING'S ADVOCATE. "It is before the Magistrate by authority of an act of parliament."

Escape of some of the Conventiclers out of prison. LONDON. "7 or 8 of those that were best able to beare it are let out of prison, and therefore for my part I will consent that it be ordered that noe more be sent to the new prison, till these be brought againe."

The keeper prayed their Lor<sup>pps</sup> pardon, and promised to endeavour to finde them againe. LONDON: "Let these women therefore for the honour of the Court be sent to other prisons, and the rest to be removed some to one prison and some to an other."

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Seates above the Communion table in S<sup>t</sup> Leonards, in Foster lane.

The petition of the Churchwardens of the Parish Church of S<sup>t</sup> Leonard's Foster lane: That there is not roome in their church to hould their parishioners, and therefore they desire that their seates above the Communione table may stand, and shew that time out of minde, beyond the memory of man, they have stood there. LONDON. "This will not serve your turne; What prescription is there? seinge tyme was there were noe seates in churches, and that not long agone." CANTERBURY. "You must obey your Ordinary." LONDON. "For that they will not obey me, I am forced to desire the assistance of this Court, 3. or 4. Churches at this present are at this ward with me. I think it is S<sup>t</sup> Austin's case." YORKE. "Doe you thinke you are worthy to sitt above the Lord's board in his house?"

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A question was brought by suit in this Court about portions of Teythes. teythes, by a Minister who was reprehended for comminge into the Court with his great ruff, band strings and cloake lyned with velvett. THE BISHOP OF LONDON said that this is a great sinne, and will bring downe the judgement of God upon the land, if it be not mended speedily, Ministers' cloakes are lyned with vellut or plush, that they may be taken for Noblemen's secretaries, or els for merchants factors of the best sorte. S<sup>r</sup> HENRY MARTIN. "This question of teythes perteyneth to the common law."

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That at S<sup>t</sup> Edmonds Church<sup>a</sup> in Salisbury they have digged up A Bishop's bones. an old Bishop out of his grave, and have made a mazzard of his scull, and his bones are in an Apothecaryes shop. That this be admitted into the Articles, *quoad testes*, though not *quoad partes*: viz. that the Promotor might make prooфе of it by witnesseſ; though M<sup>r</sup> Thatcher and the rest had answered alreadie to the other articles. This motion was made by Doctor Eden, and it was graunted.

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In the Court of High Commission, 14 Junij, 1632.

A Motion was made about Alimonie. The woman desired to Alimonie. have Alimonie graunted unto her before she had proved that her husband had misused her; but this was denyed to be graunted till she had made such prooфе; and it was said by S<sup>r</sup> Henry Martin that to graunt it in this case is the readie way to make every woman her husband's master.

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<sup>a</sup> The church in which Sherfield broke the painted window.

A Cause  
against one  
Richard  
Taylor.

Richard Tayler was accused by Articles of Adultery committed with Elizabeth Rolfe, wife of Hugh Rolfe: That he often boasted he had lived incontinently with her, and that he had made Hugh Rolfe cuckould: That there was a fame of their incontinencie: That there was a fame he lyved incontinentlie with two other women: That of Rolfes wife seemed to be directly proved, viz. his boasting of it, and the fame and suspitious meetings, &c.

Defence.

His defence was that the Promotor and divers of his witnesses were punished in the Councell of the Marches of Wales for publishing of a libell against the said Richard, and that they have brought this suit in malice against him: and he proveth they were punished for the said libell, and shewed some other exceptions against two witnesses more; viz. that betweene one of the witnesses and him there had been divers suits: and that one other of the witnesses was Curate, but was suspended, and had leaft his calling; and he makes prooфе in generall that they held him in their mindes an honest man, and that he was a man of good fame till the said libell.

Sentence.

That this jactitation or gloriacion of adultery is as much as a confession of the fact: that therefore he is to be punished as an adulterer, though it be noe direct prooфе of the fact: That there is *pæna commissionis delicti, et pæna confessionis delicti*. He was therefore fyned 200*l* to the king, and appointed to make publique satisfaction by acknowledgment of his filthy boastings, and to make his purgation for Rolfe's wife.

Wright.

In Wright's cause,<sup>a</sup> it is ordered that the Breifes be put in on both sides before Bartholomew tyde.

The Printers.

The Printers<sup>b</sup> having answered moved the Court to passe by their oversights being the fault of the workemen, but the King's Advocate desired they might make their Defence legally and the cause to go on to hearing: and that he might have liberty to put in additional articles against them. THE BISHOP OF LONDON would

<sup>a</sup> See p. 296.

<sup>b</sup> See p. 297.

have the Church sett upright in her reputacion, that we are as carefull in printeing the Bible as they are of their Jesus' psalter: and wheras the Printers say this is stirred up by the malice of one man against them; The Bishop saith he stirred not till the Bible was soold into his house, bought by his footman: and he saith the printinge is soe bad and the paper too that, if it be not mended shortlie, they wilbe put downe by those of Amsterdam and their trade spoyled, and shewed the two grossest errors, vizi. "Shalt commit adultery" and "great asse:" for "shalt not committ adultery" and "greatnesse:" THE ARCH BISHOP OF CANTERBURY saith, that the Printers that print for his Ma<sup>tie</sup> have a very profitable place, and therefore should be more carefull. I knew the tyme when greater care was had about printeing, the Bibles especiallie, good compositors and the best correctors were gotten being grave and learned men, and the paper and letter rare and faire every way of the best; but now the paper is naught, the composers boyes, and the correctors unlearned: There is a farmer and he makes the benefitt, and careth for nothing about it. They heerofore spent their whole time in printeing, but these looke to gaine, gaine, gaine, nothing els: if it be good to bribe, to give hundreds, thousands, what to doe? not to benefitt the people, but to make a gaine, then they are to be commended: Well, let them looke to it: and let the cause proceed, saith the ArchBishop. LONDON. "There was a great deale of doo betweene you of this Citty and those of Cambridge heerofore about the priviledge of printeing the Bible and psalmes which they of Cambridge claymed; then the Bible was exactlie printed, now you have forced the Cambridg printer to an agreement, now noe bible is right printed."

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Whitacres having answered about importing and selling a french Whittacres the  
booke called *Le Prince*, whcrein is some scandall conteyned against Bookseller for  
*Le Prince*.

Queene Elizabeth, The KING'S ADVOCATE insisteth upon his answere haveing therin confessed it, and prayed the cause might goe to report, and it was soe ordered.

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Pews above y<sup>e</sup> Communion table.<sup>a</sup> Sound, Hollingsworth, Gerard, John Osborne, and Thomas Pocock, havinge answered for setting up and continuing the seates above the Communion table in S<sup>t</sup> Austin's Church by Paules, they being Churchwardens and parishioners there; DOCTOR DUCK, the Chancellor of London, moved that their answeres and their cause might be considered, and they ordered to take down and remove their seates newlie sett up above the Communion table. LONDON: " You say you have not roome for your parishioners, and therfore you must have seates above God Almighty, and above Christ in his owne house; judge you, is it reason? The Church of S<sup>t</sup> Leonards, Fosterlane, is in the same case, but I made them pull downe their seates, and soe I will you, and then I will beginne with the old seates." YORKE: " You must be subject to your Ordinary, he hath power to appoint your seates, it is not fitt you should sit above God in his house." The ARCHBISHOP OF CANTERBURY saith they must submitt themselves to their Ordinary. The articles and their answeres were read: 1. You were Churchwardens of the parish Church of S<sup>t</sup> Austin's, neare Paules, London. 2. That you are subject to your Ordinarie the Bishop of London. 3. That you have built new seates above the Communion table. They answere that they think they are subject to their Ordinarie, and that they might sett up their seates above the Communion table, for there was an ould fondation of seates there, and that they have onlie built up their seates higher. The BISHOP OF LONDON moved

<sup>a</sup> See p. 297.

the Arch Bishop to declare his dislike of the thing, which he did, shewing that the Ordinary had power enough in such cases, and he desired that they would amend it. PARISHIONERS. "If the Court will order us to take them downe we will, or els we dare not, for the Vestry hath ordered it that they shalbe built upon the ould foundacion." Sr HENRY MARTIN saith, this is a matter not speedily to be determined, and that the Court must take heed what they say in it; and therfore that it be deferred till the Informacions. LONDON. "I desire it be ordered that my Chancellor view the Church and appoint what is fitt to be done." YORKE. "We must informe our selves." ROCHESTER. "The power of Vestryes and Churchwardens, this is to hatche a lay Presbyterye."

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Amy Holland<sup>a</sup> preferred her petition, humbly shewing that she Amy Holland was not well in health, being great with childe, that therefore the Court would be pleased to lett her forth upon bayle: she was to answere in Court, but she came not, and it was ordered that Doctor Ayloff should goe to the prison to her to take her oath. LONDON. "How ould is she? Had she ever childe?" CROSSE. "I know not, I think she is about 32, but I desire you would discharge me of her, for I cannot keep her without a guard of purpose. I am in feare every hourre to loose her." LONDON. "Let her have what she longs for, and let Crosse be well recompenced for his charges in keeping her."

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Processe went out against the Lieutenant of the Tower for the Clandestine abuses committed in marriages made and solemnized in the Tower <sup>marriages at the Tower of</sup> London. without banes or lycence: and now M<sup>r</sup> Lieutenant doth not ap-

<sup>a</sup> See p. 301.

peare. That the Court hath found the great inconveniences of these marriages that men's children are stolne from them. Therefore let there be an order made to declare that they at the Tower, and the Lieutenant have noe such priviledge of marrying whom they please, and that, if henceforward they observe not the Canons and constitutions in this point, they shalbe proceeded against according to the lawes. Lett this be drawen up under our hands and seales, and entred and remaine of record, and let the Lieutenant have a copy of it sent unto him: and in the mean while the cause to be prosecuted." Sr HENRY MARTIN. "I would be one to sett a fine upon Mr Lieutenant for this matter."

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Conventiclers. Rawlins, Harvy, Arthur Goslin, Howland, Robert Bye, John Smith, and others were taken at a Conventicle in a wood neare Newington in Surrey, upon the Saboth day last, and being now brought to the Court they were required to take their oathes to answer the articles put in against them. Two of them answeare they will not sweare at this time; and as they were goinge out, Harvy put on his hatt, which was presentlie taken offe and he was complayned on, and being called back to answer it, he saith he was shiftinge away, and putt on his hatt. Another saith that a lawfull Magistrate had examined them alreadie, and therefore he will not sweare to be heere examined. LONDON. "Your examinations taken before Sr [illegible] he sent to me, there is nothing in it but that you mett togeather to conferre upon the word of God as farre as you understood the same, and to pray, which you might answer heere: but you tell this Court that it is not a lawful power and authority: and of the same minde are those that were taken att Black Fryers: for they peticoned the King to be tryed by his Judges, by his Lords, declyning the ecclesiasticall jurisdiccion. This they tended the last Sunday: this your obstinacie will cause

you to be proceeded against at the common law, and be made abjure the Kingdome, and if you returne, to be hanged." KING'S ADVOCATE speaketh to another of them, " You are required to take your oath to answer the Articles put in against you." PRISONER. " I cannott sweare, because I know them not in certeinty." LONDON. " Let these (may it please your grace) be sent two and two to other prisons, and none to the New Prison, beeause the Keeper hath lett some of the principall of the other companie to escape."

Andrew Sherle will not lay his hand upon the booke. Robert Bye comminge into the Court, THE BISHOP OF LONDON spake kindly to him, saying, " Come, thou lookest like a good fellow, that wilt take thy oath." BYE. " I am Christ's freeman ; I owe obedience to God and the King, and those that are lawfullie sent by him, but to noe others." Att which there being some laughter, he said, " I am in deed and good earnest, I dare not take this oath. An oath is for the ending of a controversie, but this is made to be but the beginninge of the controversie." ARCHBISHOP OF CANTERBURY; " You doe shew yourselves the most ungratefull to God and to his Ma<sup>tie</sup> the King and to us the Fathers of the Church. If you have anie knowledg of God, it hath come through and by us, or some of our predecessors. We have taken care, under God, to give milke to the babes and yonglings and strong meate for the men of understanding, you have the word of God to feed you, the Sacraments to strengthen you, and we support you by prayer, for all this what despight do you returne us: you call us abhominal men, to be hated of all, that we carry the marke of the beast, that we are his members: We doe beare this patiently, not because we have noe law to right us, but because of your obstinacie. But for your dishonouring of God and disobeyinge the King, it is not to be indured: When you have readinge, preaching, singinge, teaching, you are your owne ministers, the blinde lead the blinde, whereas his Ma<sup>tie</sup> is God's vicegerent in the Church, the Church is nothing with you, and his ministers not to be regarded, and you runne into woods, as if you lived in persecution, such an one you make the King, to

whome wee are soe much bound for his great care for the truth to be preserved amonge us, and you would have men beleive that he is a tyrant, this besides your wickednes, unthankfulnes, and ungraciousnes towards us the Fathers of the Church. Therefore let these men be put 2. and 2. in severall prisons."

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Conventiclers. John Cooke, James, Margery Cleaver, John Japworth, Anne : One was a yong girle, these were all taken in another Conventicle, but where I cannott directly say, I heard about Christ's Church in London: These also all denied to take the oath, and were all sent to severall prisons, two and too.

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In the Court of High Commission, 21 Junij, 1632.

Kings Advocate against one Richard Hickman (a minister) of Waddington in the County of Oxon.

That he is a Minister in holy orders, and a common swearer, and two or three tymes he swore fearfullie. He sollicited Ellen Coalman the wife of Joseph Coleman to lye with her, and he strove with Marg[aret] Humfreys, endeavouring to abuse her, and said it was no sinne to lett him have the knowledge of her bodie, and he would prove it: and there was a fame of their incontinency thereupon: alsoe he keepeth companie in suspitious manner with Rebeckah Murden, and being forewarned, still keepeth them companie; and when one of the Churchwardens was sent for wine for the Communion, he perswaded him to drinke to excesse with him, saying; if he would adventure his soule, he, the said Hickman, would

adventure his bodie. That in companie of women he used very obcene talke and carriage, laughinge at the length of his . And he is a dishonest man, and maketh noe conscience of an oath.

He made noe defence. It was said by M<sup>r</sup> Advocate, that he had noe benefice, and that he is fled the country, and therefore he desireth the Court to proceede to sentence.

The Sentence was that he shalbe excommunicate ; that he shall Sentence. pay 500<sup>l</sup> fyne, and be imprisonned and pay costs of suite.

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Doctor Jones, against William Orchard thelder, William Orchard the yonger, and John Orchard.

That the said William Orchard the elder, and the two other Orchards, his Sonnes, are publique Notaryes, and dulia sworne faithfullie and trulie to execute all acts, &c. That there is, and ought to be, but one seale of office. That William Orchard the elder caused one Harding, a smith, to make an other seale, and he made the seale inclosed in the Commission. That one Florence [Key] and comminge to M<sup>r</sup> Dryver, the Surrogate of Doctor Jones at Blandford, he refused to graunt them a licence to marry, because they had not their parents' consent. That William Orchard the yonger, hearing of the refusall, secretlie bidde the parties stay, and he afterwards made a licence in Doctor Jones his name, and put wax to it, but it was not then sealed. And by this lycence Florence, the daughter of one Key, was married without his consent. And noe such licence is sett downe in the seale booke. And one Thomas Hurlocke committed adultery in Stoton Caudle, and went to a place where the said William Orchard the elder kept Court, and there the said Hurlock and Joane Sheward submitted themselves and made their confession, and John Orchard

received 50*s.* a peece of them, that they never did any penance for this. That the said William Orchard the yonger graunted another lycence, and one more was graunted by John Orchard, all very prejudicall to the parents and parties, and to the wronge of the Chancellor and Surrogate.

There was noe defence made, but it was pretended they were overtaken and concluded before they could defend themselves.

Sentence.

But the Court proceeded to Sentence, and fyned William, the father, 200*l<sup>ii</sup>*; William, the sonne, 100*l<sup>ii</sup>*; and suspended them from their places; and discharged them for ever from being publique Notaryes, for their makeing of false and corrupt acts; and John Orchard not to exercise the office of publique Notarye in the diocese of Bristol.

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Lady Allen.

In the Ladie Allen's Cause, it was said by S<sup>r</sup> Henry Martin, that if a husband commaund his wife not to goe to such a man's house, and yet she will goe and doeth ; that she is to be thought a whore; that the will of the husband soe declared is sufficient to cause her to stay away and forbeare such an house or place.

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Seates above  
the Com-  
munion table  
in St Austins.

Touchinge the Seates above the Communion table in S<sup>t</sup> Austin's Church,<sup>a</sup> THE BISHOP OF LONDON desired the Arch Bishop to declare his dislike of their seates there sett, and that they had donne amisse, and, to order that they should submitt themselves to their Ordinary, meaning himselfe and his Chancellor ; and that the Chancellor might view it, and order and give direccion verballie what was to be donne; and did not desire an order for the direct pullinge downe or remcveing of them: for feare of a prohibicion, I

<sup>a</sup> See p. 306.

think. And THE ARCH BISHOP did declare his dislike accordinglie; and order was made as was desired, and that the same was disliked in all other churches where it was soe.

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King's Advocate against Henry Mudford, Henry Ferman, and Francis Bridges.<sup>a</sup>

That they hould manie false opinions and errours: 1. That to the beleiver all things are pure ; and that David, when he committed adultery, pleased God as well as when he danced before the arke. 2. That justifyed persons cannott displease God. 3. That the morall law doth not binde the conscience, nor accuse the beleiver. 4. That those that lived before Christ, and looked for his comming, and did beleive it were actuallie justifyed. 5. That beleivers are justifyed before they have faith actuallie.

DOCTOR REEVES saith, "They have made noe defence, therefore all is true, they hould all these opinions." MUDFORD, FERMAN, and BRIDGES said that all was not true, they doe not hould all those as they are articled. DOCTOR EDEN, for the defence, saith that these are plaine men; they hould some of these, but not all. They say they are justifyed actually by faith, but that before faith they are loved of God, and that whatsoever is wantinge in the beleiver is supplyed by Christ Jesus; whatsoever the first Adam lost, Christ maketh that good againe to every beleiver, &c." LONDON. "They said these wordes, did they not? Was it not given forth in writinge by them? There is sufficient testimonie, Mr Samuel Ward and others. What say you to that your opinion, that we are justifyed and made the sonnes of God by the worke of Christ before anie faith be in us to apply the merritts of Christ to our selves?" Answere by the three Defendants. "That as Adam made all men corrupt, soe Christ maketh the elect righteous and

<sup>a</sup> See p. 270.

acceptable: and you agree with us in baptisme, Infants are regen-  
erate, therefore they are justifyed, and that is by faith; there is  
grace, though not seene." LONDON and CANTERBURY. "This in  
baptisme is not an actuall but an habituall faith. What say you to  
this? That a beleiver cannott greive God's spirit." Answere by  
the three men. "We doe not beleive that a beleiver cannot greive  
God's spirit, but yet they say that God's love was not lesse to David  
for his sinnes of adultery and murther: for God's love is un-  
chaungeable." CANTERBURY. "Let these men lye by the heeles."  
LONDON. "Let them be sent to 3 other prisons, and not to the  
new prison. And let M<sup>r</sup> Prinne be articled against for the same.  
We must not sitt heere to punish poore snakes, and lett him goe  
scot free." The 3 men. "We desire that some bodie may conferre  
with us, that we may be informed if we be in error." CANTER-  
BURY. "The Country complayneth, and the Commissary com-  
playneth, you pervert the word of God."

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Against Henry Goskin is complayned against by articles for prentinge of a  
ballett, and for composinge of it, wherin all the histories of the  
bible were scurrilously abused: some of it was read, vitz., that  
Jacob came to Heaven gate, and Adam kept the doore, thou art a  
sinner, Adam said, but thou (saith Jacob) wast the causer of our  
woe, whereat he runnes away for woe.

Defence.

The defence is that the same was printed before he was borne,  
and he hath but renewed it, and is very sorry for it, and that this  
was never called in. LONDON. "There was a parish clarke chosen  
to view all the balletts before they were printed, but he refuseth to  
doe it, let it be ordered that he shall undertake it by commaundment  
from this Court. This is not worth the sentnce of the Court."  
He is sent to Bridewell.

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Amy Holland,<sup>a</sup> by her petition desireth to be bayled and to have Holland liberty to appeare by her Proctor. LONDON. "If she be let it be a bond of 2000<sup>l</sup> and good bayle to be given, or els she shalbe committed close prisoner to Newgate."

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Ralph Grafton, an Upholster, dwellinge in Cornehill, London, Against Ralfe was required to take his oath to answere the Articles. He was said Grafton, one of to be a principall ringleader of those Conventiclers that mett at ticlers. Black-Fryars.<sup>b</sup> KING'S ADVOCATE. "This is a rich man, dwelling within the Citty, my motion is, that your Grace and the Court would sett a fine upon this man if he shall refuse to answere, that other may be warned for contemning of the Court." LONDON. "Mr Advocate, I thanke you for this motion." KING'S ADVOCATE. "I require you, and the Court requireth you, to take your oath to answere to matters of your owne fact as farre as you know, and are bound by law." GRAFTON. "An oath is a matter of an high nature, and must not be taken rashlie, I dare not therefore take this oath. We have done nothinge against the law: it was noe Conventicle: there was nothinge spoaken against the King, nor against the State, I dare not take the oath, and I am no ringleader of any to evill." CANTERBURY. "You mett without law, you had noe authority. *Pœna ad paucos, metus ad omnes.*" Wherefore, the Court for his contempt in refusing the oath sett a fine of two hundred pound upon him and committed him to prison. GRAFTON. "I have bayle heere readie, if you please to take it, I doe tender it to you." LONDON. CANTERBURY. "Noe! Away with him to prison: if he come not in by the day of mittigation, let the fine stand."

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<sup>a</sup> See p. 307.

See p. 278.

Thomas Brent against John Hippisley, and Henry Scripture,  
and  
Warford.

That three yeares since they had an attachment out of this Court to apprehend one Jeffreys, for adulterye: that Hippesley and Scripture tooke him, and received 40<sup>s</sup> of him for that tyme; and lett him goe. Another tyme they tooke him againe as he lay in his bedd by vertue of the same attachment, and tooke 20<sup>s</sup> of him and sett him at libertie. Afterward, Jeffryes removed into an other countie, 100 miles off from Axbridge, in Somersetshire: and thither Warford and Hippesley followed him, and tooke him, and brought him to an inne, and threatned him if he would not make a composition with them, they would carry him to London. Wherefore for his libertie and discharge he gave them two geldings, ix<sup>li</sup> in money, and a certeine box of surgery instruments, and his coate that he road in: that they divided the said goods betweene them, and that the said Jeffreys is since deceased. There being noe defence put in, DOCTOR DUCKE desired the censure of the Court against Hippisley, and desired an attachment against Scripture and Warford.

Sentence.

The attachment was graunted, and the sentence against the said Hippisley was that he should be fyned 100<sup>li</sup> and be imprisoned for this abuse of the proces of this Court.

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Against John  
Etsall, vicar  
of

1 Article. That you are a minister, and at your admission into the Ministery you subscribed, &c.; and you heard John Eaton, clarke, was heerfore convicted into this Court for preaching and professinge divers errors, and in particular for this opinion, that God seeth noe sinne in his elect, and that you knew the said John Eaton, and that he was sentenced and deprived. Answere. That

he knew the said John Eaton for manie yeaeres agoe, and that he was a man of honest life, and holie conversation, and did then faithfullie exercise his ministery, and he hath heard he was sentenced for his opinions in this Court. 2. Article. You were present with the said John Eaton when he was sentenced. Answere. That this article is not true. 3. Article. That you have heard that Thomas Townes, clarke, and Samuell Pretty, clarke, were convented in this Court for the same opinions, and that they were heere sentenced for them. Answere. That he hath heard as much. 4. Article. That you hould the same opinions for which they were sentenced, viz. That God seeth noe sinne in his children. Answere. It is God's mercy to sinners, that though they are borne in sinne, and cursed by the law, yet through Christ Jesus every beleiver, as Ephe. 5, 27. the whole Church is said to be, is without spott or wrinkle in God's Cant. 4, 7. sight, and accordinge to the second article of our Church and the booke of common prayer, and the Creed calleth the Church the holie Catholique Church, not inherentlie holy of it selfe, but imputatively holie, and in this sence he beleiveth this article to be true and noe otherwise. 5. Article. That you wrote a letter to M<sup>r</sup> Pretty perswadinge him to persist in his erronious opinions. Answere. He did write a letter to all faithfull Christians, but not in particuler to M<sup>r</sup> Pretty: and he wrote the rather, for that he heard that he had denyed the truth and gonne backe from his profession. The letter was read. "Yo<sup>r</sup> brother in the Faith once delivered to the Saints, John Etsall. To all that are justifyed by grace freely, and take the Lord Jesus to be your righteousnes, sanctification, and peace. When the Apostle Paule foresaw he was shortlie to be translated out of this world, he wrote to Timothy, stirringe him up to his office, I am readie to be offered (saith he) and the time of my departure is at hand; I have fought a good fight, Soe M<sup>r</sup> John Eaton, Christ's faithfull servant, having by his godlie labours gayned manie soules unto the Lord, a litle before his death wrote to us, that we should fight the good fight of faith and lay hould on eternall life, and charged us to keep these things, and

did strictlie enjoynē us before God and the Lord Jesus Christ to be diligent in preaching the word, to improve, rebuke, exhort, &c., though there be those that will not abide sound doctrine: Methinks I heare him say, thou knowest my doctrine, manner of life: And as Paul said thou knowest myne afflictions &c., soe he might say, thou knowest my persecutions which I suffered at London, at Norwich, and at Wickham; be not ashamed of my crosse. There be those that like Jannes and Jambres resist the truth, 2 Tim. 3, 8, and some erre from the faith, as St. Paule saith, 1 Tim. 1, 6. And in another place he tells them that all they in Asia were turned from him, and Phigellus and Hermogenes, and againe make speed unto me, for Demas hath forsaken me: It is noe new thinge for men to fall away from what they have professed: and againe he saith that greivous wolves shall enter, not sparing the flocke, and some shall fall quite away. I have heard what M<sup>r</sup> Pretty hath done, and that he is about to waver. Now therefore mine exhortacion is that you should stand fast and quit you like men, and remember that double-minded men are unstable in all their waies, let us wash our bodies with pure water, and consider one another to provoke unto love and to good works: and remember the counsell of our Saviour Christ, beware of backslydinge; if any man shall beginne to build and not be able to goe forward it is a shame to him, soe if we consider not before hand, what we must suffer for our profession we shall fall off: Let us remember that the momentary afflictions for the truth are not worthy of the glorie that shalbe revealed, and if they had been of us they would not have departed from us. Consider what a scandall it is to yourselves; you are, if you fall away, salt that have lost its savour; and for your freinds and the faithfull, you will make sad their hearts. But it may be some promise to choake you with a Benefice; what shall you gaine by that if you loose your soule, or a good conscience? They doe as the Spaniards perswade men to betray others, and then they will never after trust them. Touching the matter of free justification: you are to know that God beholdeth all men either in

Adam or Christ; what is betweene Adam and Christ, halfe a new creature and halfe an ould, a mongrell Christian. Then after regeneration, who shall lay anie thing to the charge of God's elect? You are dead to sinne and likewise burryed with him: soe likewise count yourselves dead: and though sinne be in our nature, yet we knowe it is forgiven for his name's sake. I salute M<sup>r</sup> Towne, M<sup>r</sup> Clarke, M<sup>r</sup> Emersam, I desire them to read this to him and to restore him with the spirit of meeknes."

"I confesse that which I have written hath justly offended you, Etsall. I pray you remember, that he that confesseth and forsaketh his sinnes shall finde mercy with God, so let me with you: I have trespassed against this Court in writinge that which doth reflect upon your honorable Court." S<sup>r</sup> HENRY MARTIN. "You have commended heer John Eaton, whom we have condempned. Hath the Church noe sinne? is she not subject to error?" LONDON. "David was a justifyed person yet 139 Psalme, Thou spiest out all my waies, and yet he cryeth out of his sinnes: the Article of our Creed, the remission of sinnes, and that which the Lord saith to the Angell of the Church of Smirna: he saw their zeale, their sufferings, their faith, and yet I have somewhat against thee: this is noe state of perfection." ROCHESTER: "Doe you undertake to write such a letter as this? such an epistle? there is not one thinge layd downe clearlye in any part of your letter. What Papist, Brownist, Jesuit might not write this letter. Was not Adam and Christ in Paule? Is there not flesh and spirit in both. I could answer you for David too that was before Christ."

DOCTOR AYLOFFE. "If he will submitt himself, and make re- Sentence. Dr Ayloffe. cantation of takinge part with Eaton and Townes, I would not give my voice that he should be deprived, soe that he will plainlye sett downe his opinions, and till then I suspend him."

"These are grosse opinions for which Eaton was heere sentenced, S<sup>r</sup> Nath: and therefore for justifying of him I would have him make publique confession at Paules, and at his owne Church and suspencion till then, and to pay costs of suit."

S<sup>r</sup> Henry Martin.  
“ You have justyfed heere Eaton, Townes, Traske and Pretty, these were all lewd fellowes, therefore you shall make your confes-  
sion, and be deprived of your Benefice.”

Rochester  
“ I am onlie sorry that the Court hath not taken this to heart being soe great a matter: these are worse then heathenes, they are a scandall to all our professions I cannot speake it with sufficient severity. This man I take him to be an ignorant foole, but an usurping blaspheminge fellow: if I could prevaile, the least I would sett upon him, I would send him to Bedlam: but I doe deprive him and degrade him, and to pay costs of suit.”

S<sup>t</sup> Davids.  
“ If he will recant, and not returne unto his opinions againe, I would not have him degraded, but onlie suspended for a while.”

London.  
“ Who is that Demas that hath forsaken you ? your letter is full of blasphemy. Who choaked you with a benefice ?” ETSALL. “ I pray speak in love.” LONDON. “ I may censure you to deprivation in love, for your base hereticall opinions : It was not wont that men should choppe in and talke soe when the Court is speakinge; these are blasphemies opened in Townes’ cause, I doe deprive him and degrade him, and costs of suit, I goe the higher, because he hath contradicted the sentence of this Court against others heeretofore.”

Canterbury.  
“ If God seeth not sinne in his children, then they may take upon them to committ sinne without feare: We know how far this is gone: and now this man to take upon him to be a kinde of an Apostle, and to write apostolicallie, we see his pride. I remember John Eaton, he was soe ignorant, and his carriage soe simple, that we thought fitt to send him to Westminster Schoole and Paule’s Schoole to be instructed. He would deny, maintaine, confesse, re-  
pent, and sometymes we had mercy upon him ; after his deprivacion we were troubled what to doe with him ; for if he did not preach, or doe somewhat, women must steale from their husbands to main-  
teyne him. Then we were content, if he would be a curate, we would try him, and he was admitted to reade homilies. Wise John Eaton fell to expoundinge of the homilies, and then broached all his opinions (formerlie denied) againe : and this is your Patriarch.

Therefore I hould this man worthy to be imprisonned and pay costs of suit, and to be deprived and degraded, if he doe not with all the detestacion possible make confession of his errors and cry God mercy and forgiveness, and you shalbe soe deprived and degraded if you doe it not; but to be suspended in the meane while. And the Bishop of the Diocesse must have this signified unto him to provide the Church with a Curate in the meane tyme."

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Doctor Jones moved against M<sup>r</sup> Hooke in a cause of Simony that M<sup>r</sup> Hooke the Promotor was willing to withdraw his suit at law soe this Court would but reteyne the cause, this was rejected, till the next Terme if they did not proceed at law.

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That he brought over a booke called *Le Prince*, and this was at Whitacres.<sup>a</sup> 20<sup>s</sup> price, at which I wondered (saith the BISHOP OF LONDON) seeing that by the bulke it should be but 3<sup>s</sup> or 3<sup>s</sup> 4<sup>d</sup>, and now it is falsely printed heere in England.

CANTERBURY. "This Bassett<sup>b</sup> the Author is a deepe flatterer, a most malitious, hungry fellow." WHITTACRES. "I beseech your Lordships pardon, I knew not what was conteyned in the booke.<sup>c</sup> It is an impudent thinge that such things should be suffered in bookes. Kingdomes cannot long stand in peace if they should."

CANTERBURY. "In France they have such histories, that when the Duke of Birone was heere, and Count , Queen Elizabeth should have the Earle of Essex head by her, and shewed it unto him, and this goeth as a cheife story amongst them. Balsett is an idle fellow and dishonest man."

That all the books be drawen in and fired and burnt publicquely Sentence

<sup>a</sup> See p. 305.

<sup>b</sup> Balzac.

<sup>c</sup> Is what follows the Archbishop's?

with those that remaine in Paule's Churchyard, and this man to be fyned 100 marks to the King and to pay cost of suit.

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Marriages  
without bonds  
or licence at  
the Tower.

The order <sup>a</sup> that was commaunded the last Court day to be drawen up was now read to this effect; That his Mat<sup>ies</sup> Commission for Causes Ecclesiasticall have a long while observed the great mischeifes growinge by clandestine marriages in manie places of this kingdome, which are made without bonds published, or lycence, but especiallie they have observed this disorder in the Tower of London, to the great hurt and undoinge many times of the married persons, and to the great greife of their parents and freinds, and against the canon and ecclesiasticall lawes. That therefore the Court, out of respect of the Kings Mat<sup>ies</sup> Lieutenant there, hath sent their letters to the said Lieutenant, that he should send those parties that have offended in that kinde to the High Commission Court: and yet nothinge hath been effectuallie done against them, and they still continue their contempt. This Court declareth that if any the said offences be there in the said Tower of London or precincts thereof hereafter committed, that the offendors shalbe in this Court proceeded against after the ordinary Course of Justice: and this Act to be made to shew that there is noe such priviledge to be mainteyned in the said liberties and precincts of the Tower. Ordered that the Lieutenant have a copy of this Order. LONDON. "His Mat<sup>ie</sup> is made acquainted with this matter, and hath referred it to some of the Lords. His Mat<sup>ies</sup> pleasure will shortly be knownen in this."

<sup>a</sup> See p. 307.

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REPORT OF THE COUNCIL  
OF  
THE CAMDEN SOCIETY,  
READ AT THE GENERAL MEETING  
ON THE 3RD MAY, 1886.

---

The Council of the Camden Society have to regret the loss, by death, of the following Members during the past year—

FRANCIS CAPPER BROOKE, Esq.  
Sir STAFFORD CAREY.  
Dr. GEORGE ELWES CORRIE, D.D.  
Rev. HENRY THOMAS ELLACOMBE.  
R. BOWNAS MACKIE, Esq. M.P.  
LORD PENRHYN.  
WILLIAM J. THOMS, Esq. F.S.A.  
Sir JOHN S. TRELAWNY.

The Council cannot but dwell with more than ordinary regret on the loss that they and the Society have sustained in the death of Mr. Thoms, whose name is familiar to every Member of the Society as its first acting Secretary and the Editor of several of its Publications.

The following have been elected Members of the Society during the past year:—

H. H. HENSON, Esq.  
Rev. WALTER P. SMITH.  
THE YOUNG MEN'S CHRISTIAN ASSOCIATION, New York.



## BALANCE SHEET 1885-86.

We, the Auditors appointed to audit the Accounts of the Camden Society, report to the Society, that the Treasurer has exhibited to us an Account of the Receipts and Expenditure from the 1st of April 1885 to the 31st of March 1886, and that we have examined the said accounts, with the vouchers relating thereto, and find the same to be correct and satisfactory.

And we further report that the following is an Abstract of the Receipts and Expenditure during the period we have mentioned:—

| RECEIPTS.  | £ s. d.           | EXPENDITURE.  | £ s. d.   |
|--|-------------------|---|-----------|
| To Balance of last year's account...   | 237 8 8           | Paid for printing 500 Copies Lauderdale Papers,<br>Vol. III. ....   | 79 8 9    |
| Received on account of Members<br>whose Subscriptions were in ar-<br>rear at last Audit .....  | 16 3 0            | Do. do. Troubles connected with the<br>Prayer Book, Edw. VI. ....   | 93 17 0   |
| The like on account of Subscriptions<br>due on the 1st of May, 1885.....   | 204 3 0           | Paid for Miscellaneous Printing .....   | 4 9 0     |
| The like on account of Subscriptions<br>due on the 1st of May, 1886.....   | 20 1 0            | Paid for delivery and transmission of Books, with<br>paper for wrappers, warehousing expenses, &c. (in-<br>cluding Insurance) ..... | 25 16 6   |
| Two years' dividend on £466 3 1<br>3 per Cent. Consols, standing in<br>the names of the Trustees of the<br>Society, deducting Income Tax...<br>To Sale of Publications of past<br>years..... | 27 3 4<br>10 18 0 | Paid for Binding.....   | 31 7 0    |
| To Sale of Promptorium Parvulorum<br>(3 vols. in 1) .....  | 4 10 0            | Paid for Transcripts .....  | 19 18 6   |
|  | <hr/>             | Postages, &c. .....   | 3 11 7    |
|  | <hr/>             | Clerical Assistance .....   | 6 6 0     |
|  | <hr/>             | Legal Expenses .....  | 1 1 0     |
|  | <hr/>             | Two Subscriptions returned .....  | 2 0 0     |
|  | <hr/>             | <hr/>   | <hr/>     |
|  | <hr/>             | By Balance .....  | £267 15 4 |
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|  | <hr/>             |   | £520 7 0  |

JAMES RAE.





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